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Monday, 18 June 2007, 10 a.m.

New York

President:	Mr. Verbeke	(Belgium)
Members:	China	Mr. Li Junhua
	Congo	Mr. Gayama
	France	Mr. Lacroix
	Ghana	Mr. Tachie-Menson
	Indonesia	Mr. Kleib
	Italy	Mr. Spatafora
	Panama	Mr. Arias
	Peru	Mr. Chávez
	Qatar	Mr. Al-Qahtani
	Russian Federation	Mr. Churkin
	Slovakia	Mr. Mlynár
	South Africa	Mr. Maqungo
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	United States of America	Ms. Wolcott Sanders

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 15 May 2007 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2007/283)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

07-38639 (E)

Letter dated 23 May 2007 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2007/323)

The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President (*spoke in French*): I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Montenegro, Rwanda and Serbia in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President (*spoke in French*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend invitations under rule 39 of its provisional rules of procedure to Judge Fausto Pocar, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991; Judge Dennis Byron, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994; Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations. Members of the Council have before them documents S/2007/283, containing a letter dated 15 May 2007 from the President of the International Tribunal for the Former Yugoslavia, and S/2007/323, containing a letter dated 23 May 2007 from the President of the International Criminal Tribunal for Rwanda.

At this meeting, the Security Council will hear briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of the International Tribunals for the Former Yugoslavia and Rwanda.

Following those briefings, I will give the floor to Council members who wish to make comments or ask questions.

I now give the floor to Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia.

Judge Pocar (*spoke in French*): It is both an honour and a privilege to appear again before the Security Council, for the purpose of presenting the seventh report of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in accordance with Security Council resolution 1534 (2004). In my presentation today, I will highlight the most significant points made in my report on our completion strategy, which was submitted to the members of the Council on 15 May 2007. I will also bring members up to date on new developments that have occurred since the report's submission.

Before delving into the International Tribunal's activities during the past six months, Mr. President, I take this opportunity to convey my appreciation for the unwavering support shown by your country for our work, as well as for its leadership in combating impunity for the commission of genocide, war crimes and crimes against humanity. I note in particular, Sir, that the International Tribunal has benefited greatly from the sense of responsibility and dedicated service of one of your compatriots, who first served as an ad litem judge and now sits as a permanent trial judge.

Members will recall in my last report to the Council I indicated that the International Tribunal had experienced one of the most productive periods in its history. Today, I begin by stating that we have not only maintained our previous level of effectiveness, but have in fact further increased the output of the Tribunal's Chambers during this reporting period.

The three Trial Chambers of the Tribunal continued to function at full capacity, hearing six trials simultaneously in the International Tribunal's three courtrooms, in the morning and the afternoon. Additionally, a seventh trial started at the beginning of January 2007, taking advantage of any openings that might appear in the courtroom schedule. This marked the first time in the International Tribunal's history that seven cases were heard simultaneously in three Trial Chambers.

Eight cases were tried in the Trial Chambers during the reporting period, three of which are multiple-accused cases, involving a total of 19 accused. Judgement was rendered in the *Martic* case on 12 June 2007, and judgement in the *Mrksic et al.* case will be issued in the coming weeks. By making use of gaps in the courtroom schedule, judges also heard one contempt case, and judgment was issued on 7 January 2007. Similarly, when trials were not in session, the Referral Bench, consisting of judges from each of the three Trial Chambers, conducted hearings in three cases of referral to national jurisdictions in accordance with rule 11 bis of the Rules of Procedure and Evidence of the International Tribunal.

In addition, the Trial Chambers managed 12 cases in the pre-trial stage, leading to the issuance of more than 150 written and oral decisions. Following on the recommendations of the working group on speeding up trials, which were detailed to the Council in the 31 May 2006 completion strategy report (S/2006/353), trial judges have used a strong hand to guide the preparation of cases for trial and to ensure that the International Tribunal can immediately start a new case when another case is completed or is suspended for any reason. This plan was put into action following complications that arose at the start of the *Seselj* and *Gotovina et al.* trials. The Trial Chamber filled the resulting gaps in the trial schedule with the trial of Dragomir Milosevic, which started in January, and that of Rasim Delic, which is due to commence in July. That proactive case management approach in pre-trial proceedings has enabled the Tribunal to begin three new trials during the reporting period.

As I explained to the Council in my previous reports, the Tribunal has implemented a large number of amendments to the Rules of Procedure and Evidence to enhance the efficiency of pre-trial and trial proceedings. I am pleased to report that the most recent amendments to the Rules, presented in the last two reports to the Council, have fulfilled their intended purpose during the reporting period with great success. Thus, rule 73 *bis*, introduced in May 2006, has been used to request or order the Prosecution to reduce the indictment in the *Seselj*, *D. Milosevic*, *Milutinovic et al.*, *Gotovina et al.* and *Perisic* cases. Rule 92 ter, adopted in September 2006, has had similar success. Recourse to the rule has saved a great deal of time in the *Milutinovic* et al. and *Popovic* et al. trials.

Furthermore, in order to save time, the Trial Chambers decided to hold additional hearings in those cases during the brief summer and winter recesses. Two Trial Chambers have already expressed their intention to continue to conduct hearings during the summer recess in order to expedite proceedings.

New approaches have also been devised to streamline the process by which cases move from the pre-trial stage to trial. The ongoing receipt of information from judges regarding the progress of pre-trial and trial proceedings has enabled the working group responsible for trial scheduling to produce a provisional calendar of current and future trials which the Tribunal believes to be a reasonably accurate forecast of the completion dates of trial proceedings. That calendar indicates that four of the six remaining cases are expected to finish during the first half of 2009 and the other two before the end of 2009.

Moving on to the activity of the Appeals Chamber, I am pleased to inform the Council that the Appeals Chamber has made even greater strides in terms of productivity. It issued seven Judgements during the reporting period — a record number in the history of the International Tribunal. In addition, the Appeals Chamber rendered one contempt Judgement; three decisions on review or reconsideration; and more than one hundred other written decisions on interlocutory appeals and pre-appeal decisions. At present, the Appeals Chamber has 10 pending appeals and is scheduled to issue four judgements in the next semester.

In its efforts to improve efficiency, the Appeals Chamber has greatly benefited from amendments to the Rules that have allowed for the expediting of proceedings while upholding the due process rights of the accused.

I wish to draw the attention of the Council to the fundamental issue of the composition of the Appeals Chamber. This should be considered over the next few months, since the workload is increasingly shifting from the Trial Chambers to the Appeals Chamber. In fact, the workload of the Appeals Chamber has already increased considerably during 2006-2007. That trend is expected to continue during 2008-2009, particularly in the light of the expected appeals from the multi-accused cases with six or more accused. Each of those cases could potentially generate up to eight appeals. As a result, it will become necessary for the Tribunal to identify ways of increasing the number of permanent judges that sit in the Appeals Chamber. In my opinion, all the trial judges of the ICTY and the ICTR will be available to take on appellate work once they are no longer engaged in trial work. That solution will ensure the orderly and expeditious completion of all appeals using existing resources.

By the same token, although cuts in Trial Chamber staffing are expected once the trials end, a significant redeployment of staff from trial support to appeals support will be required in order to successfully process the heavy workload of the Appeals Chamber in the two-year period following the end of all trial proceedings.

(*spoke in English*)

The achievements and new measures that I have just described provide clear evidence that the judges of the International Tribunal have, under my presidency, been fully committed to the work of the Tribunal and to the expeditious handling of legal proceedings, all the while mindful of their duty to ensure the fairness of proceedings and full respect for the rights of the accused.

My gratitude and appreciation also extend to the Tribunal's ad litem judges, without whose dedication the impressive results that I am reporting today would not have been possible. There are currently 11 ad litem judges at the Tribunal, three of whom serve both as ad litem judges for one trial and as reserve ad litem judges for another. During the reporting period, other ad litem judges have been willing to hear a new case while drafting a judgement in another case, effectively dealing with two cases full-time. Those ad litem judges that have not been assigned an additional trial are fully engaged in the preparation of new cases for trial. I can say without hesitation that the contributions of our ad litem judges are indispensable to the successful completion of the mandate of the Tribunal within the general time frame laid down by the completion strategy.

I would also like to make special mention of the International Tribunal's professional and skilled staff who have demonstrated impressive dedication, with drafting teams being shared by groups of judges and legal assistants doubling up on trials, effectively increasing what was already a heavy workload.

Let me now turn to another key element of our completion strategy: the referral of cases involving intermediate and lower-ranking accused to competent jurisdictions by the Tribunal, as authorized by Security Council resolution 1534 (2004). The impact of the referrals already processed on the overall workload of the Tribunal has been substantial. Ten accused have been transferred to the Special War Crimes Chamber in Bosnia and Herzegovina, two accused have been

transferred for trial before the domestic courts of Croatia and one accused has been transferred to Serbia for trial. Only two accused have yet to have their transfer finalized.

Of the cases referred by the International Tribunal, two trial proceedings have been completed by the Sarajevo Special War Crimes Chamber. The International Tribunal is satisfied that the trials of both of those accused observed the international norms of due process. Unfortunately, one of the accused, Radovan Stankovic, who had been convicted and sentenced to 20 years imprisonment, escaped from the custody of the Bosnia and Herzegovina authorities on 25 May 2007. The Tribunal is extremely concerned about that escape and has requested a full report from the Bosnia and Herzegovina authorities. The Tribunal is hopeful that those authorities and other States, will do all in their power to return Stankovic to custody. A failure to do so may impact upon the future integrity of the 11 bis referral process. With respect to the *Ademi and Norac* case referred to Croatia on 14 September 2005, the trial which has suffered some delays is expected to commence today, 18 June, and I hope that it will proceed expeditiously.

In order to ensure that international norms of due process are consistently observed in cases referred back to the former Yugoslavia, it is imperative that domestic jurisdictions in the region are given the fullest support by the Security Council and the international community in strengthening their judicial capacity, including adequate detention facilities. The Tribunal is particularly appreciative of initiatives taken by some Member States to provide resources and training to support the rule of law in the States of the former Yugoslavia, yet, much work remains to be done. For lasting change to be achieved and the rule of law to be entrenched in the region, the international community must be prepared to renew and reinforce its current commitments, in order to ensure that trials of war criminals which respect due process norms continue upon the close of the International Tribunal. It is the courts in the region that have begun the next chapter of the International Tribunal's work by prosecuting war crimes cases at the domestic level. It is those courts that will carry on the legacy of the Tribunal long after it has completed its mission.

I turn now to a related issue: our efforts to disseminate the results of our work in the region. The raison d'être of our outreach programme and field offices in Belgrade, Sarajevo, Pristina and Zagreb is to ensure that the International Tribunal is actively engaged in efforts to restore and maintain peace in the region. This means, in concrete terms, that the Tribunal coordinates and participates in a number of public events, such as conferences, lectures and training programmes, with local judiciaries and legal professionals. It also engages local media, victims' associations and other sectors of civil society to provide information on developments in the International Tribunal's work. In short, the outreach programme of the International Tribunal is working diligently to demonstrate to the people of the region, who suffered through the horrors of a decade of conflict, that concrete results are being achieved in holding accountable those who committed atrocities and in reinforcing the development of the rule of law in the region.

I now turn to an area that has for far too long been a cause for great concern but that now offers an atmosphere of guarded optimism. The success of the International Tribunal has always been predicated upon the willingness of States to cooperate in full compliance with their obligation to do so under article 29 of the Statute. The imperative for States to cooperate in the apprehension of each accused has reached a critical stage. With that reality as a backdrop, it is with satisfaction that I can report to the Council that, on 31 May, General Zdravko Tolimir, a top aide to General Ratko Mladic during the Bosnian war of 1992 to 1995, was apprehended by Bosnian authorities along the border with the Bosnian Serb entity of Republika Srpska, and that Vlastimir Djordjevic, an assistant minister at the Serbian Ministry of Internal Affairs and its Public Security Department Chief, accused of participating in the campaign against Kosovo Albanian civilians in 1999, was arrested in Montenegro on 17 June. Notwithstanding those arrests, the international community must not waver in its determination to see that the four remaining high-level fugitives, namely, Karadzic, Mladic, Zupljanin and Hadzic are brought to justice.

The Tribunal has repeatedly reported to the Security Council that its mandate will not be fully discharged until all of those accused have been arrested and tried. Accordingly, I urge the Council to take action now and to send a strong message to those fugitives that they will not be allowed to wait out

international justice and that their trials do not hinge on the International Tribunal's completion strategy dates.

The final point that I wish to raise with the members of the Council relates to the legacy of the Tribunal. The Tribunal has focused its attention for more than a year on the creation of the kind of mechanisms that will need to remain in place in order to dispose of residual issues once it completes all trials and appeals on its docket. As part of this process, the Registrar of the Tribunal organized a working group of key officials at the International Tribunal who focused on that important issue, in collaboration with the International Criminal Tribunal for Rwanda. In September of last year, I convened the judges in a plenary session to address legacy questions. That discussion informed the report prepared by the International Tribunal and submitted to the Office of the Legal Counsel for the Council's consideration in April of this year.

That report to the Council reflects the deep commitment of the International Tribunal to doing everything within its power to implement its completion strategy. As a result of the Tribunal's creative efforts and the measures that it has adopted, it is anticipated that most trials will be completed by 2008, four additional trials by mid-2009 and the final two currently on the docket by the end of 2009. In addition, should any of the four remaining fugitives from justice be arrested now, some of the trials will most likely be heard before the end of 2009. Furthermore, it is estimated that appeals will conclude within two years of the close of the trials. It is my undertaking to the Council that the Tribunal's judges and its highly competent staff will continue to seek new measures and work tirelessly to increase the efficiency of the International Tribunal's work, all the while mindful of the need to respect due process and the fair trial rights of the accused.

In the light of the pressing need of the International Tribunal to continue to seek new measures to increase efficiency and to maintain the levels of efficiency already achieved, it is of vital importance that it retains its highly qualified and experienced judges and staff.

In conclusion, while the picture that I am painting for the Council today is one of tremendous progress, I must emphasize that, ultimately, the success of the International Tribunal is not exclusively measured by the judgements issued or the number of trials and appeals completed. The overall legacy of the International Tribunal will be the precedent that it has set for the enforcement of international humanitarian law and the contribution that it has made to the establishment of peace and stability in the former Yugoslavia through the prosecution of those responsible for the atrocities committed in the region.

The Tribunal is, undeniably, indebted to the Security Council for the wisdom that it demonstrated in establishing the Tribunal in 1993. The establishment of the first international war crimes court since the Nuremberg trials has served to put perpetrators and would-be perpetrators on notice that war crimes, crimes against humanity and genocide will not be tolerated by the international community and will not go unpunished. I urge Member States not to underestimate the historical and precedent-setting achievements of the International Tribunal and to maintain their strong support as the International Tribunal approaches the completion of its mandate.

I am grateful for the attention and time that the Council has given to me today.

The President (*spoke in French*): I thank Judge Pocar for his statement.

I give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: It is a great honour for me to address the members of the Security Council as the new President of the International Criminal Tribunal for Rwanda (ICTR). I am particularly pleased to appear before you, Mr. President, as your country has consistently supported the work of the Tribunal.

My statement today will present an updated version of the ICTR completion strategy submitted to the Security Council by my predecessor, Judge Erik Møse, on 23 May 2007. After a concise overview of the judicial work of the Tribunal for the past six months, my intention today is to outline for the Security Council key issues and challenges in connection with the completion strategy of the Tribunal.

Let me start with a brief overview of the judicial work since the most recent report, given to the Security Council in December 2006. The total number of cases completed in first instance is now 27, involving 33 accused. Since the previous report to the Council, one

final judgement on a guilty plea has been issued in the case of Joseph Nzabirinda. In addition, one case has been transferred to the Kingdom of the Netherlands. Two other cases are at the judgement-writing phase, including the Military I case, which involves four co-accused.

The ongoing trials at first instance involve 22 accused in nine different cases that are at a very advanced stage in the proceedings, as the Tribunal continues to operate at maximum capacity. Of those ongoing trials, it is expected that the five single-accused cases will be completed by the end of this year, with respective judgements to be rendered in 2008. Our major challenge in terms of ongoing trials remains four multi-accused cases, involving 17 accused.

In the *Butare* trial, the fifth of the six accused will begin his case in the next few weeks. The presentation of evidence will be completed in 2007 or early 2008. In the *Government* trial, the second of the four defendants has completed his case. With two remaining accused to present their defence cases, the presentation of evidence will be completed in early 2008, with the judgement expected in 2008.

The prosecution case in the *Military II* trial closed in December 2006, and the defence case of the first of the four accused commenced on 16 April 2007. As such, the presentation of evidence is expected to be completed in 2008.

In the *Karemera* case, which involves three co-accused, the trial resumed last week, after a break of five months due to the withdrawal of a judge. The Trial Chamber is taking steps to ensure that the prosecution completes its case this year and that the trial stage concludes during 2008. However, due to the particular complexity of the procedural history of this case, it may roll into 2009.

At the Appeals Chamber, two judgements were recently delivered — in the cases of Emmanuel Ndindabahizi and Mika Muhimana. Four cases, concerning six individuals, are also pending appeal.

As the Council may have noted, in view of the elements to which I have referred and which were more fully substantiated fully in the recent completion strategy report (S/2007/323), there has been a high level of productivity in the four courtrooms of the Tribunal over the past six months. The result of those achievements is an ever-diminishing case load. Indications suggest that the next six months will be even more productive.

The completion of the five single-accused cases this year will allow the Tribunal to commence the trial phase for the remaining single accused in the second half of 2007 and early 2008, as soon as Trial Chamber and courtroom capacity permits. One of them, the case of Hormisdas Nsengimana, is scheduled to commence later this month, on 22 June 2007.

Let me now turn to another challenge that I would like to address this morning, namely, the apprehension of the 18 accused persons at large and the transfer of cases to national jurisdictions. Concerning those issues, the Tribunal and, in particular, the Prosecutor have developed specific steps on the path to completion. Last week, the Prosecutor requested the referral of the cases of three fugitives to Rwanda and to France. However, it is clear that, in view of the Tribunal's mandate as defined by the Security Council, some of the remaining fugitives should be considered candidates for trial at the Tribunal itself.

As the Prosecutor will set out in detail in a few minutes, his Office also intends to ask for the transfer of a maximum of three of the eight accused currently detained in Arusha to national jurisdictions for trial. Those steps, however, will be successful only if Member States provide support to the Tribunal in that regard. That is a crucial component of the completion strategy. I have no doubt that my visit here to the United Nations will be an opportunity to discuss this matter with Member States and to consolidate their continuous support with respect to the arrest and transfer of indictees. The purpose of the establishment of the Tribunal, to contribute to the restoration and maintenance of peace as well as to contribute to international justice, will be seriously impaired if the remaining indictees are not brought to justice. If those fugitives are not arrested and transferred in time for their trials to be completed by the end of 2008, a solution must be discussed that will allow the Tribunal or another mechanism to proceed with such cases beyond the end of 2008.

Please let me emphasize the issue of State cooperation as one of the cornerstones of the success of the Tribunal. As I have just explained, the assistance of States is critical for the arrest and transfer of indictees. That assistance is also crucial in connection with the

situation of acquitted persons, the relocation of convicted persons who have served their sentences and the serving of sentences by convicted persons.

Acquittals are a natural consequence of fair trials and the application of the rule of law. This matter has been raised at various times before the Council. Yet, to date, progress has not been as advanced as had been hoped. As of today, only two of the five persons acquitted by the Tribunal have been accepted by a Member State — France. I would like to express our gratitude to France for its support. The other three acquitted persons are under the protection of the Tribunal in Arusha, two since February 2004 and one since September 2006. The Registry has made many attempts to find a country for them. On behalf of the Tribunal, I reiterate the appeal for the assistance of Member States in that regard as well.

The situation of released persons who have completed their sentences is another of the issues that must be urgently addressed as the Tribunal moves forward. It must be determined where those individuals will be transferred after they have served their sentences.

Concerning convicted persons, six of them are currently incarcerated in the Republic of Mali, while the other convicted persons remain at the detention facility in Arusha. In addition, the Tribunal has concluded enforcement-of-sentence agreements with the Republic of Benin, the Kingdom of Swaziland, the French Republic, the Republic of Italy and the Kingdom of Sweden. The Tribunal is grateful for the support of those six countries and their willingness to enter into enforcement of sentence agreements, and remains confident that other States will provide their support with respect to the location of convicted persons.

The significant results of the Tribunal over the past six months are indisputably due to an improvement in the working methods of the three branches of the Tribunal. There is also no doubt that the recent successes are the result of the assistance of this Council in fostering continuity at the Tribunal, notably by extending the term of office of all permanent and ad litem judges until 31 December 2008. The Tribunal has increasingly relied on ad litem judges for realizing the completion strategy objectives — a contribution that has surpassed what was envisaged.

The efficient completion of trials at the Tribunal also continues to be possible thanks to the highly dedicated work of staff. In the face of the lack of sufficient resources in key departments, the staff has evinced its commitment to the completion strategy of the Tribunal by absorbing the resulting increased workloads.

There is no doubt that retention of experienced staff constitutes one of the major success criteria of our completion strategy. The knowledge and past experience of staff serve the prompt and efficient achievement of the Tribunal's work. Many highly competent staff members, however, continue to leave our institution. That situation is aggravated by the difficulties the Tribunal foresees in recruiting new staff as it moves closer to completion. It is essential that I draw the Council's attention to the fact that the Tribunal will be able to achieve its goal only if it obtains the necessary resources, among other things, by developing the capability to retain its experienced staff with institutional knowledge.

Before I conclude my address, please let me now turn to the Tribunal's contribution to Rwanda.

The strengthening of the Rwandan judicial system and the improvement of its capacity to prosecute cases transferred from the Tribunal is also a goal and expected achievement, as identified by the Security Council in its resolution 1503 (2003). The Tribunal provides support to the local judiciary and prosecutors in the region, as further described in the completion strategy. Those efforts are made possible thanks to current and future donor and technical assistance from Member States. Moreover, with respect to increasing outreach, the Tribunal is actively working through various initiatives: the ICTR outreach programme, programmes on awareness-raising within Rwanda, strengthening relations with academic institutions in Rwanda, developing media, and the continuation of active cooperation and assistance to Rwandan civil society organizations. With respect to the relationship with academic institutions, the Tribunal is fostering a number of initiatives, such as continuing with the Special Fellowship Programme for Rwandan Law Students and internship and legal researcher programmes. A number of those programmes are funded through the Tribunal's voluntary contributions trust fund, which is currently depleted. Any further contributions from Member States will be greatly appreciated.

I am also pleased to reiterate that Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses and by providing documents to the prosecution and the defence.

As with my predecessors, my objective and mandate continue to be to lead the Tribunal to the completion of its work while upholding the highest standards of due process and fair trial. The aforementioned projections suggest that 65 to 70 persons will have judgments rendered in their cases by the end of 2008.

However, as indicated, despite the successes and positive projections, challenges remain due to external factors outside the control of the Tribunal that could be remedied with the support and assistance of this Council and of Member States. With the possibility that one multi-accused case will continue after 2008, as well as the issue of fugitives, some trials, as well as the drafting of judgments in some cases, may in fact run into 2009. The cooperation of Member States with the Tribunal is paramount if the Tribunal is to successfully to complete that work. The projections will also depend on sufficient resources being made available by the Member States through the completion of the Tribunal's work.

The Tribunal, as we move towards the completion of our work, will also continue to prioritize the contribution to building the capacity of the Rwandan judicial system. The achievements of the Tribunal and the commitment to bringing to justice those persons who were most responsible for genocide and violations of international humanitarian law that were committed in Rwanda in 1994 are unwavering. The Tribunal's work will not be completed until we meet the challenge given to us by this honourable Council to establish the guilt or innocence of the accused, bring justice to victims of the massive crimes that were committed, and establish a record of facts that can aid reconciliation in Rwanda. In the process, the Tribunal will leave a legacy of international jurisprudence that can guide future courts, deter potential perpetrators, and prevent impunity for those grave crimes.

On behalf of the Tribunal, allow me to express appreciation to the Council for its support of the Tribunal's mission. That support continues to have a direct impact on the work of the Tribunal.

Let me conclude by thanking the members of the Security Council, the Secretariat and the Member States for their steadfast support. We look forward to continuing the Tribunal's work with them all in the final years of our mandate.

The President (*spoke in French*): I now give the floor to Ms. Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the former Yugoslavia.

Ms. Del Ponte (*spoke in French*): Eight years ago, when I was first appointed Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, we lived in a different world in which international justice and the International Tribunal had a long road ahead of them. Who at that time would have believed that one day, we would see the arrest of a former head of State? Since then, international justice and the International Tribunal have made considerable progress. Indeed, during my two mandates as Prosecutor, we have succeeded in arresting 91 persons.

In mid-September, my mandate as Prosecutor will come to an end. This is therefore the last time that I will address the Security Council in my capacity as Prosecutor of the International Tribunal. Here, I wish to express my sincere gratitude and thanks for the support that the Council has provided to the Tribunal, to international justice and to me personally during the past few years.

(*spoke in English*)

Members will have received my written assessment of the completion strategy. Thus, I will now highlight a few points set out in the report and address recent developments that have occurred since the issuance of the written report.

We have come a long way towards achieving the goal set for the International Tribunal, namely, the prosecution of the most senior leaders responsible for the most serious crimes committed on the territory of the former Yugoslavia after 1991. During these years, I have undertaken investigations of crimes committed in conflicts in Croatia, Bosnia and Herzegovina, Kosovo and the former Yugoslav Republic of Macedonia. During my terms, as I indicated earlier, 91 accused have been transferred to The Hague, while as of this date four remain at large. Fifty-nine persons have been convicted in the first instance, including as recently as last week. A number of those cases are still on appeal. Moreover, the Appeals Chamber has confirmed the convictions of 37 persons. Currently, we are

conducting six first-instance trials, with 25 accused, and are awaiting judgements for three other accused. Only 11 accused are still at the pre-trial stage. In addition, there are five appeals pending, involving 11 accused.

While trials and appeals are progressing and nearing completion, there is a sense that a significant degree of justice will have been brought to the victims of the conflicts that raged throughout the region. However, many victims will feel that that was not enough, and they will be right. There are numerous mid- and lower-level perpetrators who could not be tried in The Hague because of the International Tribunal's completion strategy. I have been working intensively with authorities in Belgrade, Sarajevo, Zagreb and Skopje to transfer knowledge and evidence that we possess pertaining to hundreds of other suspects.

Although we have seen some progress in domestic prosecutions, I advise the international community to remain vigilant. The temptation of the respective Governments to interfere in these processes is still very present. Thorough monitoring of all domestic war crimes proceedings remains imperative. The Organization for Security and Cooperation in Europe (OSCE) has proved to be the institution best suited to carrying out this important function. I therefore call upon the Council to provide its full backing to that regional organization. Since the question of whether the OSCE should continue to monitor trials in Croatia is being debated, I wish to reaffirm the importance of the monitoring process carried out by the OSCE and recommend that it pursue that activity in Zagreb.

The fact that four persons remain at large — including, in particular, Radovan Karadzic and Ratko Mladic — is a permanent stain on our work. We believe that those fugitives are currently in Serbia or within its reach. I should inform members, however, that my Office has no information regarding the current whereabouts of Radovan Karadzic's. It is troubling that Radovan Karadzic has disappeared from the radar screens of the relevant services, and it seems that no one is actively searching for him. I am, however, convinced that relevant States in the region have the means to locate and arrest him.

In the past few weeks, we have observed general progress in Serbia's level of cooperation with the International Tribunal, in particular with the Office of the Prosecutor. I was in Belgrade, upon the invitation of President Boris Tadić, to discuss and assess Serbia's cooperation with the International Tribunal. During my stay, I met with senior political leaders and Government officials, including the President, the Prime Minister and the Deputy Prime Minister. I also had meetings at the operational level to discuss in detail plans to locate and arrest fugitives.

During the visit, authorities at various levels expressed a clear commitment to provide all the assistance necessary to locate and arrest the remaining fugitives. New structures have been put in place, aimed at centralizing all activities to apprehend fugitives. Thus, for instance, shortly after the new Government was formed, a National Security Council was established; it is chaired by the President and will be the central organ dealing with fugitive issues. The National Security Council has already convened and, at its first meeting, has reaffirmed that its priority is to cooperate with the International Tribunal by arresting fugitives.

Moreover, on 31 May, thanks to the cooperation between Serbia and Republika Srpska, Zdravko Tolimir was arrested and transferred to The Hague. Following that arrest, just over this past weekend, Serbia worked directly with us to locate Vlastimir Djordjevic, in Montenegro. Montenegrin authorities subsequently arrested him and transferred him to The Hague, where he is now in the custody of the Tribunal.

Those arrests demonstrate Serbia's commitment to cooperate fully with my Office. I should also point out that, in the past few weeks, Serbia has responded to most of the pending requests for assistance, and my Office is at this moment studying the material we have received. The backlog of outstanding and partially responded to requests since March this year has been reduced from more than 250 to less than 50. That illustrates the recent positive developments in Serbia's level of cooperation with my Office. Over the coming weeks, my Office will closely scrutinize Serbia's level of assistance, as I still demand its full cooperation, which includes the provision of full access to documents and the arrest and transfer of the fugitives — in particular Ratko Mladic — to The Hague.

I would like once more to emphasize, as I have done in my previous reports to the Council, that the

continuing impunity enjoyed by Ratko Mladic and Radovan Karadzic gravely undermines all efforts to bring justice to the victims. That impunity also seriously affects the credibility of the International Tribunal, which was mandated to prosecute those most responsible for the most serious violations committed in the former Yugoslavia. As the Council is considering pending regional issues — in particular the future status of Kosovo — I hope that any such decision and the timing thereof will not undermine ongoing efforts to arrest and locate fugitives.

In December 2005, during my appearance before the Council (see S/PV.5328), I explained the reasons why Ratko Mladic and Radovan Karadzic were still at large. At times, I could sense that our work was hampered because the political convenience of the moment was interfering with the administration of justice and with the fulfilment of the International Tribunal's mandate. The International Tribunal has had to rely on political bodies, States or even military alliances to obtain access to key evidence. Unfortunately, cooperation was not always forthcoming, and we were not always successful in securing that crucial evidence.

States and organizations present on the ground have at times been hesitant openly to assist the International Tribunal. While in certain cases accused were arrested and surrendered immediately, in other cases fears of alleged political and security instability permitted those indictees to remain free. Indeed, the international community missed clear opportunities in the period 1995 to 1998 to arrest Ratko Mladic and Radovan Karadzic. Today, as the clock is ticking, we need this international assistance more than ever. As experience has shown, the Council, the European Union, other regional organizations and States can provide strong incentives for States of the former Yugoslavia finally fully to cooperate with the International Tribunal. The Completion Strategy in itself is a strong encouragement for some to do nothing and wait until the International Tribunal closes its doors. I trust that the necessary action will be undertaken to prevent that tactic from succeeding.

As to other States in the region, Croatia's level of cooperation has been generally satisfactory. Recently, my Office has, together with the Croatian authorities, been able to solve certain problems encountered during the preparation of the trial against Ante Gotovina and his co-accused. I am hopeful that the commitment of the Croatian Government to resolve effectively any issues emerging in this cooperation during the pre-trial and trial phases will be unequivocally affirmed in future.

Bosnia and Herzegovina's level of cooperation with my Office has progressed over the past months and is now also at a generally satisfactory level. There are clear indications that progress has been made and that coordination between the State and entity levels in targeting the fugitives' support network is improving. I also welcome the important role played by Bosnia and Herzegovina, and in particular the Republika Srpska, in facilitating the arrest and transfer of Zdravko Tolimir to The Hague recently.

Finally, I am appreciative of the role played by Montenegrin authorities in the arrest and transfer of Vlastimir Djordjevic. In both the Tolimir and Djordjevic cases, the arrests are the concrete result of increased cooperation at the regional level between the various State authorities.

Despite the difficulties, I believe that we have nonetheless achieved an important degree of justice, as the number of convicted high-level individuals shows. Only 11 cases remain at the pre-trial stage, and those are expected to commence sometime within the next year. Four persons remain at large.

The International Tribunal is often criticized because it is apparently too slow or inefficient. However, over the past four years, there has been a great quantitative and qualitative leap forward in our judicial work. The management of pre-trial processes has greatly improved. Some of the International Tribunal's judges are taking a more active stance, which I certainly welcome. More written evidence is being admitted and more adjudicated facts are being accepted. The prosecution, being the engine of any trial, is making continuous efforts to make proceedings as effective and efficient as possible while preserving the rights of the victims and the defence.

I have taken the liberty of focussing on some of the issues that, in my view, deserve to be addressed so as to enhance the credibility and efficiency of international judicial processes. Please do not misunderstand me. The International Tribunal has made impressive achievements. All the judges, prosecutors, registrars and staff members who have been working for the International Tribunal since 1993 deserve credit for its successes. There are only a few

more years to go. To build upon what has been achieved thus far, it is essential that continuity be ensured at the helm of the Office of the Prosecutor. My successor should be immediately operational so as further to foster the efficiency of the trial work and to make it possible to continue to track remaining fugitives. Of course, I hope that, given the recent arrests made and Serbia's commitment, we will soon see the end of the issue of fugitives.

I now turn to the members of the Council, because it is to the Security Council that the international community, the public and the victims will turn to take the necessary measures to redress injustice. They will turn to the Council to call for the arrest of Ratko Mladic and Radovan Karadzic. I trust that the Council will take the action that is required and give us the support needed to successfully carry out our mandate.

(*spoke in French*)

Mr. President, I should like to take this opportunity to express my heartfelt gratitude for your country's commitment to international justice. I should like also to commend the pioneering role that Belgium has been playing in this area. I was particularly appreciative of your country's active role in supporting the International Tribunal throughout its existence and the courageous stands taken regarding it. Allow me also, Mr. President, to thank your Minister for Foreign Affairs for his support and his confidence in the work that we are doing.

I should like to conclude by calling on the Council to continue the struggle against impunity by using its power to ensure the proper functioning of international criminal justice. I call on the Council to continue to support the International Tribunal and my successor, so that they can successfully complete the mission that the Council has entrusted to them.

Finally, in my personal capacity, I should like to express my sincere gratitude for the Council's support and for the confidence that it has shown in me during my mandate as Prosecutor.

The President (*spoke in French*): I thank Mrs. Del Ponte for her briefing and for her kind words addressed to my country.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: The updated Completion Strategy document of the International Criminal Tribunal for Rwanda (ICTR) reflecting the information available to us as at 15 May 2007 and which has been submitted to the Security Council reflects the continued progress of the Tribunal in the implementation of the completion of our mandate, as set out in resolutions 1503 (2003) and 1534 (2004).

Our commitment to and our confidence in attaining the goals of the Completion Strategy remain firm and unwavering. We continue to believe these goals to be reachable, and we shall continue to work towards that end. The President of the ICTR, Judge Byron, has given the Council a synopsis of where we stand at the moment. I just wish to add that, with the conclusion of evidentiary proceedings in the case of the Prosecutor vs. Bagosora and three others — what we refer to as the Military I case — a major case of the ICTR is now reaching finality and awaiting only judgement. The number of accused persons standing trial has thus been reduced to 22, with all but five of them charged in multi-accused trials. All those cases are anticipated to conclude between 2007 and 2008. There is a possibility of a case or two which might be in progress in 2008 extending over to early 2009 for completion.

Since our last report to the Security Council, the number of detainees awaiting trial has been reduced from 11 to 8. We believe that, after making allowances for possible guilty pleas and for possible referrals of some of those cases to national jurisdictions for trial, what remains of this category of cases can be disposed of by the end of 2008. The negotiation and conclusion of guilty pleas with accused persons continues to be an important element of the prosecution strategy, and we anticipate a positive outcome in that respect shortly. The Office of the Prosecutor is also actively engaged in ensuring the trial readiness of these cases in order to be able to proceed with the trials as soon as the programme of the Trial Chambers so permits.

The Council will recall that on previous occasions I have indicated plans to request the referral of the cases of five detainees to a national jurisdiction for trial. That figure has now been reduced to a maximum of three detainees whose cases may be so referred. The adjustment is due to the reduction in the number of detainees who are now awaiting trial.

I also reported to the Council earlier that the Office of the Prosecutor has already handed over some 30 files of suspects to Rwanda and to other jurisdictions for further investigation and possible prosecution by the national authorities of the States concerned. These cases relate to persons who were under investigation but who had not yet been indicted and whose cases we believe require further attention and action where possible.

I am pleased to report that, since my last report to the Council, in December (see S/PV.5594), the referral of cases of indictees under rule 11 bis of the ICTR Rules to national jurisdictions for trial has now started. After the initial setback in the application for the transfer of the case of Michel Bagaragaza to Norway, the judges of the ICTR finally acceded to the request of the Prosecutor to refer this case to the Kingdom of the Netherlands, which had agreed to accept the case. The accused and the case file of the Prosecutor have now been handed over to the Dutch authorities. We are immensely indebted to the Kingdom of the Netherlands for its cooperation in this and several other matters.

Rwanda remains the main possible destination for the referral of cases under rule 11 bis for prosecution. The number of cases of indictees which remain for referral is in the region of 15, comprising 12 of the 18 fugitives and three of the detainees awaiting trial.

Six of the 18 fugitives — including Félicien Kabuga, businessman and supporter of the Mouvement républicain national pour le développement et la démocratie (MRND), the then-ruling political party; Protais Mpiranya, former Commander of the Presidential Guard; Augustin Bizimana, former Minister of Defence; Callixte Nzabonimana, former Minister of Youth; Augustin Ngirabatware, former Minister of Planning; and Idelphonse Nizeyimana, a former senior military official — have been earmarked for trial in the ICTR because of their respective leadership roles in the genocide of 1994. It is important for continued success of the campaign to combat impunity worldwide that such persons of high standing who bear responsibility for serious crimes not escape the arm of the law. In the event that these persons are arrested too late for their trials to conclude by the end of 2008 at the ICTR, or in the event that they remain at large and unarrested by that date, the Tribunal will need guidance from the Council as to how their cases should be dealt with. The solutions may include authority for the ICTR to proceed with such cases beyond the end of 2008 or the referral of these cases to a national or other jurisdiction for trial.

It is important to stress, however, that if the ICTR is to succeed in concluding the trials of these six top-level fugitives in time, by the end of 2008, they — and here I include Félicien Kabuga — need to be arrested and placed in the custody of the Tribunal by the end of 2007. This will allow the necessary preliminary procedures and arrangements to be made by the Chambers and the parties to the case — that is, the prosecution and the defence — before the commencement of trials. There is therefore a need for vigorous efforts by all concerned, including Member States, to ensure their timely arrest and rendition to the ICTR.

In my last report to the Security Council, I briefed members on my discussions with officials and ministers of the Government of Kenya, which Government continues to assure me of its full cooperation with regard to the arrest and transfer to the ICTR of Félicien Kabuga. Since then, a joint effort has been under way between ICTR officials and the Kenya police. That effort disclosed that Kabuga was present at various times in Kenya up to October-November 2006 and that he has several business interests in that country as well. An independent source has confirmed to the ICTR that Kabuga was indeed seen in Nairobi as late as April 2007. We remain convinced, on the basis of these intelligence reports, that Kabuga continues to be present in Nairobi and carry on business in the country. The joint investigations between the ICTR and Kenya continue to point in that direction. Welcome as they are, however, these joint efforts have not led us to our goal, which is his arrest and transfer to the Tribunal. These inquiries are not an end in themselves; they are useful only if they lead us to that ultimate goal. It is necessary now that the Security Council and the Members of the United Nations bring their influence to bear on the Government of Kenya for it to live up to its international legal obligations by arresting Félicien Kabuga and handing him over to face justice at the ICTR. As I indicated earlier, if we wish to try him at the ICTR we need to have him arrested and transferred by the end of this year.

Most of the remaining fugitives are reported to be in the Democratic Republic of the Congo. Their arrest, particularly the arrest of those earmarked for trial in Arusha, must remain a priority. The cooperation of the Government of the Democratic Republic of the Congo

and of other States in the Great Lakes region continues to be sought by the ICTR to that end. I believe also that a broader view of the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo which would facilitate collaboration among that mission, the Democratic Republic of the Congo and the ICTR would help us achieve good results.

Rwanda has recently enacted legislation, which has now come into force, providing for the trial of cases referred from the ICTR and from States for offences related to the 1994 genocide. That law excludes the application of the death penalty in such cases and provides extensive guarantees for fair trial similar to the provisions of the ICTR Statute. The Office of the Prosecutor has secured the agreement of the African Commission on Human and Peoples' Rights to monitor the trial of any case referred by the Tribunal to Rwanda. Donor assistance, notably from the European Union, Canada and the United States of America, and technical assistance from the ICTR continue to provide for capacity-building for the Rwanda legal system. These significant developments have, in my view, made Rwanda eligible for referral of cases under rule 11 bis of the ICTR Rules, relating to the referral of cases of indictees. The final decision, of course, rests with the judges; the role of the Prosecutor is to make a request. Accordingly, my Office, a week ago, filed the first rule 11 bis request for the referral of the case of an indictee to Rwanda. Should the outcome prove favourable to the Prosecution, a number of other similar requests will follow. In the event that these rule 11 bis requests to Rwanda are not approved, I shall revert to the Security Council.

I also wish to inform the Council that my Office also filed, a week ago, a request for the referral of the cases of two other indictees to France for trial. These are indictees who are resident in France, which has jurisdiction over the cases and which has also agreed to receive the cases from the ICTR. We await the decisions of the Trial Chamber on the requests. I would like to place on record our appreciation for the invaluable support that France has provided to the Tribunal over all these years.

Investigation of the allegations against members of the Rwanda Patriotic Front, which we had hoped to conclude by now, need to be continued until we are in a position to finish that aspect of our mandate.

Rwanda continues to cooperate effectively with the ICTR. Its support in facilitating access to witnesses, to sites and to evidence has contributed significantly to the steady pace of the trials in Arusha.

Staff retention continues, as we reported at the December 2006 meeting, to be a matter of serious concern as we progress to completion. The challenge of proper completion can best be met with the aid of competent, dedicated, well-motivated staff. We thus wish to emphasize the need for early approval of measures and incentives which would enable the Tribunal to retain the staff it requires for completion of its mandate.

Let me conclude by conveying our appreciation for the immense support we continue to receive from the Security Council and other organs of the United Nations, as well as from the Secretariat and Member States. Such support and cooperation are absolutely essential for the success of the Tribunal's mandate and for furthering the cause of international criminal justice.

The President (*spoke in French*): I thank Mr. Jallow for his briefing.

I now invite Council members who wish to make comments or ask questions to do so.

Mr. Gayama (Congo) (*spoke in French*): The delegation of the Congo would like to express its gratitude to the Presidents of the two International Tribunals, Mr. Pocar and Mr. Byron, as well as to the Prosecutors, Ms. Del Ponte and Mr. Jallow, for their briefings, which have given us the opportunity to reaffirm our commitment to international criminal justice.

Their progress reports highlighted encouraging indicators for the continued work of the two Tribunals and took note of real progress in the implementation of the completion strategies that the Council has defined for them. There are grounds for welcoming the activities of the Tribunals, given the stepped-up pace of their work during the period under consideration, particularly regarding trials and appeals, in which significant progress has been achieved. Therefore, it is important to provide them with all the support they need to continue their work diligently and to complete their mandate in 2010 as recommended by the Security Council.

It seems to us ever more clear that, in pursuing that goal, cooperation with national jurisdictions is of particular importance; beyond helping to attain the goals, this contributes to building the capacities of those jurisdictions. To be sure, an assessment of such cooperation yields a somewhat mixed, even contradictory, picture: a rather active picture as regards Rwanda, which has continued to insist that the perpetrators of genocide be brought to trial; and a variable picture with respect to certain countries of the former Yugoslavia.

We cannot fail to deplore the lack of cooperation demonstrated by certain States. We hope that this will not further hamper the momentum and the pace at which the Tribunals are working to complete their mandates. This is why we endorse the appeal made for greater firmness regarding those States that bear responsibility for the apprehension of fugitives. Even if it is acknowledged that no one is guilty until guilt is proven, we cannot help harbouring a serious presumption of guilt as regards fugitives — knowing as we do exactly what causes them to flee. This is, therefore, a legal obligation that derives from the rules of international law and, above all, from the moral duty of States and the international community to impose justice that is credible and that applies to all.

By effectively combating impunity, ad hoc tribunals are serving higher objectives in terms of national reconstruction and peacebuilding — something of which the Security Council, the Peacebuilding Commission and the Human Rights Council have a great need within the framework of their mandates.

Whatever the outcome so far, we believe that it is useful to welcome the effort at the codification and development of international criminal law that has resulted from the work of the criminal tribunals to date. This is a valuable legacy for the future. It is a legacy whose gains — both technical and in terms of human expertise — we must preserve. A wise African, Mr. Amadou Hampâté Ba, has said that the loss of a savant — an expert who is a repository of knowledge — is inevitably like a fire in a library. Hence our interest in paying particular attention to this issue, all the more so since departures have been announced, such as those of Ms. Carla Del Ponte and of other experts.

In conclusion, I would like to ask one or two questions. Mr. Byron, the President of the International Criminal Tribunal for Rwanda (ICTR), told us that there had been some difficulties in finding countries to receive a number of those acquitted, while there was a rather positive assessment of cooperation between Rwanda and the ICTR. How can we assess the current relationship between the Tribunal and Rwanda, which is being extremely active internally, making use of the local tribunal system known as *gachacha*?

Along the same lines, regarding the International Criminal Tribunal for the former Yugoslavia (ICTY), the involvement of governmental institutions with respect to these trials is clearly variable. Could either the Prosecutor or the President — with, of course, all the circumspection called for by their judicial functions — tell us how we might continue the process, given the greater participation required by Governments and States to ensure the credibility of the objectives of justice — which are not at all in question, but the need for which is so understandable, at least from the standpoint of history? We in the Security Council know that any intergovernmental body is always subject to contradictory influences. To what extent, then, do they expect that intergovernmental or governmental institutions will provide adequate cooperation for the successful completion of their missions?

Mr. Arias (Panama) (*spoke in Spanish*): First and foremost, I would like to thank Tribunal Presidents Fausto Pocar and Dennis Byron and Prosecutors Carla Del Ponte and Hassan Bubacar Jallow for briefing us on the activities of the International Tribunals for the former Yugoslavia and for Rwanda. I want to thank them not only for their undeniably comprehensive reports, but also for the sterling work that they carry out in their respective courts. The trials they are conducting are an extremely important part of the enforcement of international law, and we must not underestimate the great contribution that they have made to the international community and — on a somewhat more elevated level — to humanity itself.

The crimes committed in the former Yugoslavia and in Rwanda form part of the two darkest chapters in the story of the twentieth century; on the other hand, the establishment of the Tribunals to try those accused of the crimes committed in those conflicts and to render justice to the thousands of victims and their families has been one of the Security Council's

outstanding successes in the maintenance of international peace and security. The work of these Tribunals, in particular the convictions of important perpetrators, sends to all guilty of crimes against humanity the unequivocal message that they cannot expect impunity.

Yet the mission of the Tribunals for the former Yugoslavia and for Rwanda has still not been completed. Although the Tribunals were not created as permanent institutions, and although their mandates cannot be extended indefinitely, their work must be completed in its entirety. Part of their legacy and contribution will depend on that. For that reason, we must address urgently and seriously the so-called residual functions of the Tribunals. It is most important that they have the infrastructure and the administrative and legal staff they need to ensure that the residual functions can be completed with the same degree of diligence that the Tribunals have shown in their work until now.

In that respect, I read carefully the joint document that has been submitted. I understand the sensitivity of the proposal made to extend the functions of the current Tribunals, perhaps with a reduced structure. However, we cannot ignore this comment from that very document:

(*spoke in English*)

> "The only permanent international criminal institution that could theoretically provide the range of functions required is the International Criminal Court. However, there are obvious differences in terms of the jurisdictional basis, substantive law and procedures applicable before the ICC and the Tribunals. The ICC's relationship to the United Nations, including the Security Council, also differs markedly from the ad hoc Tribunals. Transferring the civil functions of the Tribunals to the ICC might accordingly require an amendment of the ICC statute.
>
> "Although not insurmountable, the hurdles, coupled with the complicated amendment procedure of the ICC Statute, suggest that transferring the residual functions of the Tribunals to the ICC might not be a realistic option."

In that regard, I was reminded of a phrase from a law professor of mine who used to tell us, "Difficult things should be done and accomplished right away; impossible things should take us a little bit longer".

(*spoke in Spanish*)

Recently, the Security Council approved the entry into force of an agreement between the United Nations and Lebanon to create a tribunal to address international crimes of the most serious nature. It did that with the aim of promoting international justice. I would venture to suggest that in the process of completing the work of the international Tribunals we should keep a broader view in mind, namely, how we can cooperate better in promoting international justice. I suggest that serious consideration must be given to the difficult proposal that has been made: to give those tasks to the International Criminal Court. I am certain that the Council can be sufficiently creative — and that, if necessary, it could turn to the States parties. We must also pursue that option. The option of having the International Criminal Court complete these trials should be seriously considered by the Council.

Ms. Wolcott Sanders (United States of America): I would first like to address the International Criminal Tribunal for Rwanda (ICTR). We welcome Prosecutor Hassan Bubacar Jallow, Registrar Adama Dieng and, especially, newly elected President Dennis Byron and thank them for their continued contributions to the Tribunal. We also wish to thank the hundreds of other staff who on a daily basis dedicate their energy and skills to the lasting success and legacy of the Tribunal.

The United States remains strongly committed to the International Criminal Tribunal for Rwanda and commends its efforts to provide justice and accountability to the Rwandan people. They are, after all, the intended beneficiaries of the Court and must remain its primary focus.

Responsibility for the success of the Tribunal lies in the hands of many parties. The President, the Prosecutor and the Registrar must continue to work towards their completion strategy deadlines, while also planning for the Tribunal's legacy after its 2010 closure. We applaud the Tribunal's success in meeting many of its previous trial projections. We also encourage a continued candid dialogue among all parties on challenges facing the Tribunal and recognize our partnership in that process, particularly on residual and legacy issues.

The success of the Tribunal also rests on the shoulders of the Security Council and all United Nations Member States. The completion strategy will involve transferring some cases to domestic jurisdictions; the Netherlands has already accepted one. The Prosecutor has also just filed his first transfer case to Rwanda's domestic jurisdiction.

Provided the ICTR finds that Rwanda's judiciary meets the fair trial requirements of rule 11 *bis*, the United States fully supports Rwanda's bid to receive all remaining transfer cases. Our Government has met repeatedly with the Rwandan Government, Member States and Rwandan civil society to encourage and support judicial capacity-building efforts, and we ask all donors to continue their important contributions to that end.

The Security Council, in the Tribunal's founding resolution, resolution 955 (1994), stressed the "need for international cooperation to strengthen the courts and judicial system of Rwanda" (*ninth preambular para.*). That goal is perhaps more paramount today than at any time in these past 13 years.

We also call on all Member States, particularly the Democratic Republic of the Congo and Kenya, to fulfil their international obligation to apprehend and transfer all ICTR fugitives within their borders. Reports continue to surface that top fugitive and alleged genocide financier Félicien Kabuga remains in Kenya. We support Kenya's previous efforts to apprehend Kabuga but note that seriously robust and concrete steps are now needed as the Tribunal begins to wind down and as international pressure mounts to complete its mandate. Nevertheless, all fugitives must know that they do not escape justice by merely outlasting the Tribunal. We will make provisions for their capture and prosecution whether today, tomorrow or years from now.

We again thank the President, the Prosecutor and the Registrar for their service to the Tribunal, to justice and accountability and to the Rwandan people. We also express our highest praise and gratitude to former ICTR President Eric Møse for his exemplary stewardship and dogged commitment to the Tribunal's success during these past four years. His imprint will continually be felt as a part of the Tribunal's own lasting legacy.

The United States remains a strong supporter, financial and political, of the United Nations International Criminal Tribunal for the Former Yugoslavia (ICTY) and appreciates the hard work of the President, Prosecutor and Registrar. The focus of the Tribunal and the international community should now be on the road ahead. We must work together to ensure that over its final years the Tribunal successfully fulfils its mandate, namely to bring to justice the persons who are most responsible for war crimes committed in the former Yugoslavia. Specifically, that will involve apprehending the remaining fugitives, expeditiously completing the work at hand and planning for eventual closure.

We call on all States to fulfil their legal obligations to cooperate fully with the ICTY, including by arresting and transferring the remaining fugitive indictees. In that regard, the United States welcomes the recent apprehensions of Zdravko Tolimir and Vlastimir Djordjevic and the close cooperation between the Serbian, Montenegrin and Republika Srpska authorities that facilitated those arrests.

The United States calls on Serbia to take further steps to fulfil its obligations, in particular through the apprehension and transfer to the Tribunal of all fugitives who may be on Serbian territory, including Ratko Mladic and Radovan Karadzic. Mladic and Karadzic have been charged with terrible crimes, including the Srebrenica genocide, and it is unthinkable that they would escape international justice.

The United States therefore calls upon the Tribunal, its partners in the international community and States in the region to take all necessary steps to ensure that they are apprehended before the Tribunal closes. In the event that they are not apprehended before that time, we call on the international community to take appropriate measures to ensure that they face international justice.

The United States appreciates the work of the President and Prosecutor to increase Tribunal efficiency and to meet the Tribunal's completion strategy targets, as endorsed by the Security Council. In particular, we welcome the unprecedented step of running seven trials simultaneously. We appreciate the positive example set by the Trial Chambers in the *Milutinovic et al.* and *Prlic et al.* cases in scheduling hearings during the upcoming recess period, and recognize the many less visible efforts that Tribunal staff make on a daily basis to increase efficiency.

In that light, and in the context of the recent arrests of Tolimir and Djordjevic, the United States notes that all trials should conclude by the end of 2008, or as soon thereafter as is feasible. We also call on the Tribunal to take all possible steps to complete appeals by the end of 2010 and ask that it report to the Security Council on further measures that it feels are necessary to meet that goal. The success of the completion strategy does not depend solely on the Tribunal, however. The international community can help by supporting the Tribunal's efforts to help build capacity for domestic trials. We note the significant work being done in the region in this regard and urge other States to contribute to domestic war crimes prosecutions, either through direct financial assistance or in-kind contributions.

As Prosecutor Carla Del Ponte today delivered her final report to the Council, the United States would like to take this opportunity to express its appreciation for her service at the ICTY. She deserves to be commended for her role over the past eight years as a forceful champion of international justice and accountability.

The United States notes with appreciation the recent joint paper on legacy and residual functions of the ad hoc Tribunals, and asks that the Tribunals continue to plan their legacy functions in close coordination with the Security Council.

Mr. Lacroix (France) (*spoke in French*): My delegation too would like to thank the Presidents and Prosecutors of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda for their briefings today. I would like to reaffirm the full support of France.

I would like in particular to congratulate Judge Dennis Byron on his assumption of the presidency of the Rwanda Tribunal, and would ask him to transmit our appreciation to his predecessor for the remarkable work that he accomplished.

As this is the last occasion on which Ms. Del Ponte will be speaking to the Council in her current capacity, my delegation would also like to take this opportunity to express to her my country's great appreciation for the work that she has done as Prosecutor of the International Tribunal for the Former Yugoslavia, as well as for her work for the Rwanda Tribunal. Her determination, independence and skill have played an important part in attaining the results achieved. It has become clear to the perpetrators of atrocities that it is not a good thing to be on what we now call Carla's list. Her actions should serve as an inspiration. We understand her impatience with regard to the lack of cooperation, and we appreciate her tenacity.

Indeed, that tenacity has recently borne fruit, because a few weeks ago, just before her visit to Belgrade, General Tolimir was arrested and transferred to The Hague, and, yesterday, General Djordjevic was also handed over. France welcomes those arrests, which reaffirm the willingness of Belgrade to cooperate with the Tribunal.

Four indictees are still at large, however. We note that, according to the Prosecutor's report, all remaining accused are within reach of the Serb authorities. We are encouraged by the Prosecutor's comments regarding the possible arrest of Ratko Mladic in the near future. We welcome the measures taken recently by the Belgrade authorities towards full respect for its international commitments, as set out very clearly by the International Court of Justice in a recent ruling.

It is only on the basis of the results achieved, however, that cooperation with the Tribunal will be evaluated. France believes that the full and complete cooperation of Serbia and Republika Srpska with the Tribunal for the Former Yugoslavia remains a sine qua non for their integration into the European family.

France would also like to thank the two Tribunals for the work that they have done to respect their completion strategies, and we have taken note of the timetables that have been announced. Recent progress has been made in referring matters to national jurisdictions, which President Pocar identified as playing a key role. We also note that Prosecutor Jallow recently requested the first transfer of cases to Rwanda as concerns one of the 18 fugitives, and we welcome the positive developments in the area of cooperation between that country and the Tribunal. We are pleased that the African Commission on Human and Peoples' Rights has agreed to follow up on the trials, just as the Organization for Security and Cooperation in Europe (OSCE) does concerning cases transferred by the Tribunal for the Former Yugoslavia. We also note with satisfaction the positive evaluation that the OSCE has made regarding the first cases in Bosnia and Herzegovina. France supports the appeal made by the President of the Tribunal for the Former Yugoslavia to

Croatia to deal as quickly as possible with the cases that have been transferred to it, and we note that a trial has opened today.

As the Presidents and Prosecutors have pointed out, the major challenge facing the two Tribunals — as well as the Council, which created them — is that some of the major figures responsible for the crimes are still at large. Their number has been reduced, but some of those individuals, who are identified with the odious policy of ethnic cleansing — Ratko Mladic and Radovan Karadzic — are still at large. That is also the case with Félicien Kabuga so many years after the genocide took place.

Although the dates that we have specified by which the Tribunals are to complete their work are fast approaching, it is important that we bear in mind what is meant by those dates. In our resolutions, we called on the Tribunals to take all possible measures to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010. Thus we have set an objective, and my country's main concern is that justice be done for the victims. But those are not cut-off dates. The Council itself envisaged that the dates could be changed if circumstances beyond the control of the Tribunals meant that their objectives could not be attained. Yet some seem to view the timetable as being set in stone, and believe that the Tribunals should close by 2010, whether or not the principal fugitives have been brought to justice. That is certainly the hope of those fugitives and of those who support them. France cannot accept such an interpretation. The Tribunals cannot close until they have brought to justice the main suspects of the crime of genocide. That would be a failure, which we could not countenance, given the hopes placed in and the efforts made by the ad hoc Tribunals.

That does not at all mean that we should keep the Tribunals in their current state. Their structure and means should be adapted to their activities. That process has already begun, and it must continue, with the support of the Security Council. Furthermore, it is time for the Council to deal with the residual functions of the Tribunals, whether this relates to the serving of sentences, the protection of witnesses, the review of judgements, transfers to national jurisdictions or the management of archives. Those questions are complex, and they are very important as regards the legacy of the ad hoc Tribunals. They must be subject to guidelines and decisions taken by the Council over the coming months. The Security Council must be guided by the need to bequeath an incontrovertible and viable legacy for the victims, their societies and regions, and for the international community as a whole.

The ad hoc Tribunals have been pioneers. They must also complete their mission successfully, and for that they need our support and the full cooperation of the States involved. For France, it is clear that, if we want the completion strategies to be respected, we must redouble our efforts to ensure that the fugitives are apprehended. That is an obligation for the States in whose territory they are hiding. We must remind them of that in a friendly but firm manner.

Mr. Tachie-Menson (Ghana): First of all, let me join other members in thanking the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their detailed reports. The professionalism, commitment and resourcefulness of the Judges and Prosecutors and the dedication to duty shown by the staff of the Tribunals have contributed greatly to the unique role they are playing in the development of international humanitarian law.

Regarding the International Criminal Tribunal for the Former Yugoslavia, we are happy to note that, six months after the last report of the President and Prosecutor, steady progress has been made towards the Tribunal's completion strategy. The completion strategy of the Tribunal is crucial to its mission to end impunity for the most serious crimes. It is for that reason that we take note with great interest of the procedural reforms and administrative arrangements instituted to reduce the length of trials. That has led to the expeditious disposal of cases — with the Appeals Chamber handing down 114 decisions, which is a record number in the circumstances. In addition, 107 proceedings against accused persons have been completed since 2004.

We consider that the referral of cases to domestic jurisdictions is one of the effective tools at the Tribunal's disposal in the execution of its completion strategy, as it reduces the Tribunal's workload. We also consider referrals as a tool to build capacity in domestic jurisdictions, in the sense that they enable domestic courts to develop experience in handling similarly complicated cases and contribute to entrenching the rule of law.

We are impressed with the Tribunal's outreach programme, which has had an influence on the level of awareness of the importance of the work of the Court in the various communities concerned.

On the question of cooperation, my delegation wishes to express concern that four high-level fugitives are still at large. We call on all members to collectively or individually ensure the apprehension of the fugitives for trial.

With regard to the International Criminal Tribunal for Rwanda, we are again impressed by the gains made. The Tribunal has made an invaluable contribution to the restoration of democracy and the rule of law in the region by bringing to justice the perpetrators of heinous crimes. The international community therefore has an obligation to support the Tribunal and its programmes, if the gains are to be sustained.

We are impressed that, in spite of the difficult circumstances under which it has to operate, 27 judgements have been delivered, involving 33 accused persons. However, in view of the increasing workload, we need to focus on how best to strengthen the Appeals Chamber, which also handles cases for the ICTY. We endorse the President's recommendation on the need to take the necessary procedural steps to amend the statute to enable the number of judges of the Appeals Chamber to be increased.

On the issue of genocide, we wish to reiterate our position that it would be desirable that the genocide trials, which form the core of the Tribunal's mandate, be disposed of within the timeframe for the completion strategy.

We also commend the Tribunal's outreach programme, which has had an impact on community-based alternative justice mechanisms.

Finally, we wish to stress that there is a need for flexibility in our consideration of the two Tribunals' completion strategies. We believe that, following the completion strategies' cut-off date, it should be possible to have in place a residual mechanism to handle cases of fugitives still at large, hear outstanding appeals and handle administrative and archival matters. The Security Council should consider all options on how best to approach those residual issues.

Mr. Spatafora (Italy): I would like to join other colleagues in thanking President Pocar and President Byron, as well as Prosecutor Del Ponte and Prosecutor Jallow, for their presentations to the Council. Italy commends the tremendous progress, as President Pocar has called it — or, as Prosecutor Del Ponte has referred to them — the impressive achievements made recently in pursuit of the completion strategy through various modifications to the rules of procedure and evidence and the strong commitment of the judges, prosecutors and staff of both Tribunals.

I would like to take this opportunity to thank President Møse for his leadership of the International Criminal Tribunal for Rwanda (ICTR) over the past four years. I also wish to thank Prosecutor Del Ponte for her passionate commitment, determination and consistency in her prosecutorial activities during her long tenure at the International Criminal Tribunal for the Former Yugoslavia (ICTY) and in her previous work at the ICTR. In addition, I wish to extend my congratulations to President Byron on his election.

Italy is pleased that respect for human rights, with particular emphasis on fair trials and due process, is at the core of the concerns of both Tribunals in completing their work, as respect for human rights and the rule of law is crucial to the work of international tribunals established to hold accountable those responsible for the worst international crimes.

The valuable contributions of both Tribunals to the codification and progressive development of international humanitarian law is beyond any doubt. As regards the ICTY, that contribution was recently confirmed by the principal judicial organ of the United Nations, namely, the International Court of Justice (ICJ). In its judgement last February in the case on the application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina vs. Serbia and Montenegro*) the ICJ made several references to the ICTY's decisions and based some of its conclusions on the judicial activities of the Tribunal. Furthermore, it is well known that the Tribunals' case law served as a basis for the drafting of key provisions of the Rome Statute of the International Criminal Court.

The recent apprehension by the Bosnian authorities of one of the most prominent fugitives — General Tolimir — and the arrest yesterday in Montenegro of Vlastimir Djordjevic, illustrate that the international community is fully engaged in the capture of those allegedly responsible for international crimes

in the former Yugoslavia. We hope that similar actions will lead to the apprehension of other major fugitives — especially Ratko Mladic, Radovan Karadzic and, as regards the ICTR, Mr. Kabuga. We should not forget that respect for the victims and their loved ones implies that the perpetrators of the gravest international crimes must not go unpunished.

As to the future endeavours of the ad hoc Tribunals in their completion strategies, Italy believes that the crucial issues should be to finalize the numerous cases the Tribunals are dealing with and to conduct trials against fugitives once they are apprehended. In that regard, I wish to commend the ICTY and the ICTR — and especially their Presidents, Judge Pocar and Judge Byron — for their reports, in which a precise timeframe for the remaining judicial activities was given for the first time. Their assessments show once again how determined the ICTY and the ICTR and their Presidents are to fulfil the completion strategies.

Other aspects of the strategies that we wish to underline here are the ongoing referrals of intermediate and lower-ranking cases to competent national jurisdictions by the Tribunals, provided that the national jurisdictions fulfil the human rights requirements referred to in resolution 1534 (2004); the reshaping of judicial activities, which will focus on appeals and on the possible revision of judgements; and the expansion, if possible, of the Tribunals' outreach and capacity-building activities, which have proved to have an enormous impact on the civilian population.

Finally, we would like to recall that the Tribunals' legacy is under serious consideration within the Council. Many delicate issues, both judicial and administrative in character, are at stake. We are confident that important decisions will be made to reaffirm the purpose for which the Tribunals were established, namely, the punishment of those responsible for the most horrific international crimes in the former Yugoslavia and in Rwanda. International criminal justice in those areas, as in the rest of the world, does not expire in 2010. I would like to join other colleagues who have spoken before me in emphasizing the absolute need to consider a transitional mechanism that goes beyond 2010.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Allow me at the outset to thank the leaders of both Tribunals for their briefings and for the reports they have submitted to the Security Council under resolution 1534 (2004) on the implementation of the Completion Strategy for their work.

We have a positive assessment of the work of the International Criminal Tribunal for Rwanda. We welcome the adoption by the Rwandan Government of the law excluding the application of the death penalty to cases referred from the Tribunal. We believe that that will allow the Tribunal in the future to transfer a greater number of cases to courts of national jurisdiction. We continue to believe that the transfer of cases to national courts is a fundamental way of facilitating compliance with the timetable laid down by the Security Council for the implementation of the Completion Strategy for the work of the Tribunals.

At this stage, we note the active work of the International Criminal Tribunal for the Former Yugoslavia. At the same time, however, we are not satisfied by the forecasts from the Tribunal's leadership that have been repeated in report after report regarding the need to plan first-instance trials for the year 2009.

We note the arrest and transfer to the Tribunal of the accused Zdravko Tolimir. The arrest testifies to the desire of the authorities of Serbia and the Republika Srpska to cooperate with the Yugoslav Tribunal and to fulfil the obligations entrusted to them by the Security Council.

We are also seriously concerned by the current situation with respect to the case against Ramush Haradinaj. The witness-protection issues surrounding the case and, above all, the allegedly accidental deaths of the major witnesses must not be whitewashed either by the Tribunal or by the relevant States and agencies of the United Nations. We cannot ignore the fact that the Security Council will have to address that problem.

I shall dwell separately on the case of the accused Mr. Djordjevic, who was arrested on Saturday in Montenegro. The arrest took place in Montenegro and not in Russia, where he was long sought by the Prosecutor at non-existent addresses and which the Prosecutor accused of concealing him. Unfortunately, the usually eloquent Prosecutor was unable to find the words to acknowledge that the presumption of infallibility does not apply to prosecutors of international tribunals.

In conclusion, I stress once again that we expect the Tribunal strictly to comply with the schedule laid down by the Security Council for the completion of its work. We will not accept attempts to reinterpret the Completion Strategy of the International Criminal Tribunal for the Former Yugoslavia. The fact that several accused remain beyond the Tribunal's reach cannot serve as justification for the indefinite extension of its activities.

Mr. Mlynár (Slovakia): We are very grateful to Judge Fausto Pocar, President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), as well as to the respective Prosecutors of both Tribunals, Ms. Del Ponte and Mr. Jallow, for their detailed assessment reports concerning the progress made in their work, including towards implementation of the Completion Strategies set out in Security Council resolutions 1503 (2003) and 1534 (2004).

Slovakia welcomes progress made within the period since the most recent assessment reports were submitted to the Security Council in late 2006, as well as the continuing endeavours of the Tribunals. We wish to reiterate our full support for them as they exercise their tasks under the mandate given by the Council.

Considering the Completion Strategies as crucial documents that streamline the final phase of the functioning of the Tribunals, we highly appreciate all measures, including amendments of the rules of procedure and organizational adjustments, made by the Tribunals in order to meet the timeframes and deadlines for completion of their work, taking into account the shift from investigation activities and the focus on the trials and appeals phase of the proceedings. Since the deadline for completion of first-instance trials by the end of 2008 is approaching, we are following current developments and cases very closely. In that regard, we acknowledge that the Tribunals continue to put serious emphasis on the protection of the rights of the accused while trying to expedite proceedings at the same time.

Slovakia commends the strengthening of cooperation of the Tribunals with respective national authorities, in particular with domestic courts of Bosnia and Herzegovina, Croatia, Serbia and Rwanda. We highly appreciate the increasing number of referrals of cases involving intermediate and lower-ranking accused to competent national jurisdictions. In particular, we welcome the decision of the ICTR to transfer the case of Michel Bagaragaza to the domestic authorities of the Netherlands. Those measures should enable both Tribunals to focus on prosecution and trials of the most senior leaders suspected of being most responsible for crimes under international law. Slovakia insists on the strict compliance of trials at the national level with international standards of fair trial and due process.

Regrettably, some of the most important indictees explicitly referred to in Security Council resolution 1503 (2003) remain at large, having so far escaped international justice. In that context, we reaffirm our strong appeal to States concerned to cooperate fully with the Tribunals, in particular in tracking, arresting and transferring remaining fugitives to the Tribunals. Without bringing those suspects to justice, the work of the Tribunals cannot be fully completed and the message to the international community would be flawed. No perpetrators of the worst crimes under international law should go unpunished.

We also praise the effective assistance of States in witness and victim protection and in the enforcement of sentences imposed by Tribunals. We find the conclusion of respective legal instruments for that purpose to be essential to the full implementation of Completion Strategies.

Extending current outreach activities, especially among members of communities affected by crimes prosecuted by the Tribunals, and leaving a clear legacy of international jurisprudence are among the key components of the wider system of international criminal justice. The residuary issues of Tribunals seem to be the most crucial issues for the coming months. We call upon all respective States to pay due attention to that problem. We are very encouraged, of course, by the most recent arrests of Zdravko Tolimir and Vlastimir Djordjevic, and commend the cooperation of the respective national authorities with the ICTY. We hope that the same type of cooperation will soon lead to the early arrest of the remaining fugitives, in particular the two top fugitives Radovan Karadzic and Ratko Mladic.

Conscious of the serious problems and obstacles both Tribunals have to tackle, Slovakia welcomes and strongly supports the continued commitment of the Tribunals to making every effort within their powers,

including through exploring new measures, to fully discharge their mandates and to meet the target dates of the Completion Strategies.

Moreover, in the case of Félicien Kabuga, as we have just heard from Mr. Jallow, we encourage all States to cooperate closely with the ICTR, as we have heard that he is active and moving around in the region, which cannot be tolerated. All current efforts should be redoubled in order to ensure that he is arrested without delay.

The Security Council should maintain its strong support for and attention to the work of both Tribunals, including the implementation of their Completion Strategies. If necessary, we believe that we should be ready to adopt the additional measures necessary for the successful completion of the work of both Tribunals in serving international law and justice.

In conclusion, I would like to take this opportunity to express our special thanks to Judge Erik Møse for his work as former President of the ICTR and to Ms. Carla Del Ponte, who today delivered her last briefing to the Security Council in her current capacity. Slovakia highly appreciates the energy and efforts that Ms. Del Ponte has invested in the cause of the ICTY and the fight against impunity. We appreciate her leadership over the past eight years and wish her every success in her future professional and personal life.

Ms. Pierce (United Kingdom): The United Kingdom would like to join preceding speakers in thanking the Presidents and the Prosecutors of the two Tribunals: President Pocar, President Byron, Prosecutor Del Ponte and Prosecutor Jallow.

As this is Prosecutor Del Ponte's last appearance before the Security Council, we would like to pay tribute to her enormous contribution to the work of the International Criminal Tribunal for the former Yugoslavia (ICTY) and hence to the embedding of security and stability in the Balkans region. Her dedication and tireless efforts have kept the ICTY at the forefront of the international battle against impunity and have helped to bring a sense of justice to many of the victims of terrible crimes in the former Yugoslavia. Her work has been an immense contribution to the cause of reconciliation in the Balkans. It is fitting that, on the eve of her last appearance before the Council, she should have been paid the tribute of the transfer of Djordjevic. We wish her every success in the future, and we pay tribute also to the work of her dedicated team.

In addition, I would like to extend a welcome to Judge Byron in his first appearance before the Council and to wish him success in his new role President of the International Criminal Tribunal for Rwanda (ICTR). Along with other speakers, I would also like to pay tribute to the excellent work of his predecessor, Judge Erik Møse, over the past four years.

First, I should like to speak about the ICTY. We are pleased to note the significant progress made by the ICTY in implementing the completion strategy. It has introduced a number of efficiency measures, including conducting multi-accused trials and greater use of the Rules of Procedure to shorten court time and maximize courtroom usage. We acknowledge that there is still likely to be slippage in the timetable, but we urge the ICTY to keep as closely as possible to the 2010 indicative target.

Completion does not, of course, mean that the doors of the ICTY will close. Work has already begun on analysing the need for residual mechanisms; we thank the two Tribunals for their draft paper. We continue to emphasize, in that regard, that Karadzic and Mladic must be arrested and transferred to the ICTY at the earliest opportunity. As we have done on many occasions, we call on all parties, including the Governments of Serbia and of Montenegro and the authorities in Republika Srpska, to cooperate fully with the ICTY.

We welcome the February judgment of the International Court of Justice (ICJ). We reject attempts by some to hold all of Republika Srpska and Bosnia guilty of war crimes; but, at the same time, we draw the Council's attention to that part of the ICJ's judgment in which it held that Serbia has an obligation under the Genocide Convention also to transfer Karadzic and Mladic to the ICTY. We recall that Srebrenica was the worst massacre in Europe since the end of the Second World War — a massacre of more than 7,000 Muslim men and boys. We note that the twelfth anniversary of Srebrenica is imminent, in July. We should not let another anniversary pass without the apprehension of the highest-profile indictees, Karadzic and Mladic. It is in line with the recent Security Council resolutions 1503 (2003) and 1534 (2004) that they should be tried by the ICTY. I would like to make clear our support for that in the Council.

As Ms. Del Ponte has noted, there have been some positive developments, and we welcome them. We congratulate the authorities of Serbia, Montenegro and Republika Srpska on the transfer of Zdravko Tolimir to the ICTY, and also of Vlastimir Djordjevic this weekend. It is clear that fugitive indictees can turn up in the most unlikely places, as we saw with the arrest a few years ago of Ante Gotovina, and we commend the Croatian authorities for their role in that respect.

Ms. Del Ponte has noted the more positive approach of Serbia towards the Tribunal. We commend in particular the role of the National Security Council under President Tadić. That new approach has enabled the European Union (EU) to restart Serbia's stabilization and association agreement, which has been one item on the agenda at the EU foreign ministers' meeting today. We welcome that progress, but I would also like to make clear that the pace and the conclusions of the negotiations on the stabilization agreement in particular depend on full cooperation with the ICTY. The Council and the European Commission will jointly review Serbia's performance in those areas before any decision to sign the agreement is taken by the Council.

In that respect, I would like to note that it is disappointing that some Serbian leaders have sought to pretend that both the resumption of the stabilization agreement and NATO's offer of Partnership for Peace membership for Serbia mean that somehow the international community is less interested in bringing fugitive indictees to justice. I would like to make it clear that that is emphatically not the case.

I would now like to turn to the ICTR. We also commend the ICTR for its efforts to keep to the indicative target date of 2010 for the completion strategy. Again, we underline that remaining fugitive indictees cannot outwait international justice. We call in particular for the arrest and transfer by Kenya of Félicien Kabuga.

The transfer of cases to national jurisdictions remains an important element in the completion strategy. Along with other speakers, I commend the Netherlands for having accepted one such case, and we note that the Prosecutor has just filed an application for the first transfer of a case to Rwanda's domestic jurisdiction. We note the welcome development that Rwanda has passed legislation to exclude the application of the death penalty to cases referred to it from the ICTR or from other States. If Prosecutor Jallow were able to provide more information about that new legislation, we would certainly welcome hearing more about it.

It will be important in the coming months for the Security Council to make progress on residual arrangements for the ICTY and the ICTR, and also to incorporate residual issues for the Special Court for Sierra Leone into that process. The draft paper from the ICTY and the ICTR is a very good basis for those discussions. We look forward to tomorrow's meeting of the Working Group on Tribunals, where consideration of those issues will be continued.

Mr. Chávez (Peru) (*spoke in Spanish*): My delegation thanks the Presidents of the two Tribunals — Judge Pocar of the International Criminal Tribunal for the former Yugoslavia (ICTY) and Judge Byron of the International Criminal Tribunal for Rwanda (ICTR) — and the two Prosecutors, Ms. Del Ponte and Mr. Jallow, for their presentations this morning. We commend their efforts and the progress made in both Tribunals during the period covered by their briefings.

The briefings by the Presidents and the Prosecutors indicated the results that have been possible because of the commitment of the Tribunals' organs to duly implement the completion strategies as a means of carrying out their mandate: to prosecute those who committed atrocious crimes in the former Yugoslavia and in Rwanda. While we recognize the difficulties that they face, we are encouraged that both Tribunals are making every effort to meet the established deadlines in a context of full respect for due process.

The efforts of the Tribunals necessarily require the full cooperation of States in overcoming impunity and ensuring justice for the victims. That is why it is disturbing that, to date, Radovan Karadzic, Ratko Mladic and Félicien Kabuga, among other important leaders accused of having committed serious crimes, remain fugitives. The international community cannot allow the passage of time and the expiration of deadlines to preserve impunity. In that connection, it is essential and urgent that all States meet the international obligation to arrest and transfer the accused.

In that context, the recent arrests of Zdravko Tolimir and Vlastimir Djordjevic and the handing over by Serbia of a significant number of documents requested by the Office of the Prosecutor are very positive signs. We hope that this cooperation will intensify and lead to the arrest of other fugitives. Likewise, we encourage Croatia, Kenya, the Democratic Republic of the Congo and other States on whose territories those fugitives may be hiding, as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), in the area of witness protection, to step up cooperation with the Prosecutors.

The transfer of cases involving mid- and low-level accused to competent national jurisdictions is an integral part of the completion strategy. We recognize the efforts that are being made by both Tribunals in that respect, in particular with regard to building the capacity of local judicial systems.

Success in this area is particularly important given that its impact will not end when the accused are tried at the national level. There will be significant long-term repercussions as concerns the rule of law and improved administration of justice in the countries concerned. For that reason, we join in the calls for the provision of the necessary international assistance to those States. Likewise, we stress the need for national jurisdictions to act impartially and as quickly as possible in trying the cases transferred to them.

With regard to judicial cooperation among the Balkan States, we support the efforts of Prosecutor Del Ponte to address what has been called "an impunity vacuum". That vacuum exists because it has been impossible to resolve certain aspects related to the non-extradition of nationals and to the transfer of cases between States. We wish to stress that, in cases of genocide, war crimes and crimes against humanity, such issues cannot be left unresolved, and we therefore urge the Office of the Prosecutor to continue working with the States involved with a view to overcoming those difficulties.

Concerning the Tribunals' legacy as they come to the end of their work and the creation of a residual mechanism, we wish to thank them for their valuable contributions.

The Security Council must consider these issues in the framework of a broad and inclusive process involving the States directly concerned, similar tribunals, and civil society. We believe that the appropriate decisions should be taken before the expiration of the deadlines for the work of the Tribunals.

My delegation reiterates its support for the work of the International Tribunal for the former Yugoslavia and of the International Criminal Tribunal for Rwanda. We express our willingness to cooperate to ensure that their mandates are fully discharged and to send a clear signal against impunity.

Finally, as this is the last report that Ms. Del Ponte will present to the Council as Prosecutor, allow me to convey to her my Government's gratitude for her important service in the cause of justice. Likewise, I wish to thank Judge Erik Møse for his tireless work as President of the International Criminal Tribunal for Rwanda.

Mr. Kleib (Indonesia): I would like first of all to join other speakers in welcoming the Presidents and Prosecutors of both Tribunals to the Council and in thanking them for their respective reports and insightful briefings.

Indonesia supports the effective contributions of the International Criminal Tribunal for the former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR) in bringing those who were responsible for crimes against humanity in the former Yugoslavia and in Rwanda, respectively, to justice.

Justice, as a foundation of peace, will generate sustainable peace only when it is sought in tandem with reconciliation efforts. Hence Indonesia believes that the Tribunals could also contribute to the process of national reconciliation in the countries concerned and to the struggle of those countries to come to terms with the past and move on to embrace the future.

We are encouraged by the fact that the two Tribunals are steadily working to meet their completion strategies. The completion strategies are instrumental in the streamlining of the final phase of the functioning of both Tribunals.

We commend the cooperation of the countries of the former Yugoslavia and of Rwanda in the work of the respective Tribunals and their completion strategies.

One important step in the context of the completion strategies is the transfer of cases from the

Tribunals to national courts. My delegation recognizes the merits of, and challenges posed by, such a step. Transferring the cases would reduce the backlog of the two Tribunals and allow them to complete their respective mandates on time. It would also reduce the Tribunals' overall financial burden.

However, transfer to national courts will be ineffective if those courts are not well equipped and sufficiently capable. Under such circumstances, justice will hardly be served and the foundations of peace will become less secure.

In that regard, my delegation attaches particular significance to the capacity-building programmes of national courts. The support and assistance of the international community in that effort is essential. National courts must have an unequivocally strong commitment to justice in order to function effectively. They must receive political support from the Government and from the people they serve in order to work authoritatively. In our view, a lack of commitment or support would bring into question the courts' efficacy and credibility.

Legal standards and respect for national justice systems must be equally respected. Thus, when national courts eventually take over the cases from the Tribunals, they should observe proper standards. National justice systems must also have an undisputable willingness and the capacity to bring to justice their nationals responsible for crimes against humanity, whoever they may be. When a system is averse to, and incompetent in, bringing such perpetrators to justice, the need for international tribunals will remain pressing.

Justice cannot be fully served so long as the perpetrators remain at large. The system must be able to bring them to justice, no matter when or where they are apprehended. My delegation therefore stresses the paramount importance of enhancing cooperation among States in the service of justice.

There can be no sustainable peace in the former Yugoslavia or Rwanda without justice and reconciliation. Through their judgments and decisions, the Tribunals could play a major role not only in serving justice, addressing impunity and promoting reconciliation in those countries but also in the development of international humanitarian and criminal law.

As a final point, my delegation underlines the significance of continued close cooperation between the Tribunals and the countries concerned and other relevant stakeholders at various levels in the pursuit of justice.

Mr. Al-Qahtani (Qatar) (*spoke in Arabic*): Mr. President, I should like at the outset to thank you for having convened this meeting and to extend our thanks also to Judge Pocar, President of the International Criminal Tribunal for the former Yugoslavia (ICTY); Judge Byron, President of the International Criminal Tribunal for Rwanda (ICTR); Ms. Carla Del Ponte, Prosecutor of the ICTY; and Mr. Hassan Bubacar Jallow, Prosecutor of the ICTR, for their progress reports on the Tribunals' completion strategies and for their briefings to the Council.

The Tribunals are continuing to move forward in the implementation of their completion strategies, with the support of the Security Council and in accordance with its resolutions 1503 (2003) and 1534 (2004). They are continuing to take steps at various levels in order to complete those strategies by the end of 2008.

While we recognize the need for the Tribunals to complete their work by the deadlines set, we would like to stress that there must be a balance between respecting such time frames and ensuring the full implementation of the Tribunals' mandates in an effective manner that guarantees a fair trial for all indictees.

The establishment of these two Tribunals exemplifies the commitment of the international community and of the United Nations to put an end to impunity by bringing to justice those responsible for the most heinous crimes against humanity. However, that commitment must be matched by a continued commitment by the Security Council and all States to arrest and bring to justice those indictees who are still at large. Justice cannot be complete while they remain at large before the eyes and ears of the international community. We therefore call upon all States to fulfil their commitments to the two Tribunals, in accordance with the relevant Security Council resolutions, by arresting the fugitives, foremost among them Mladic, Karadzic and Kabuga, and transferring them to the Tribunals, and by fully cooperating with the two Tribunals in their work. We call once again upon the Security Council to guarantee the strict implementation of its own resolutions.

Now, during the Tribunals' final years, we must focus on their legacy: a significant legacy of international jurisprudence that can guide future courts. We call upon the Tribunals to continue their efforts to complete their work, because the victims of these heinous crimes are pinning great hopes on them for the affirmation of justice and peace, and because the work of the Tribunals contributes significantly to the achievement of security, stability and national reconciliation.

We believe that the two courts cannot complete their work until they bring the principal indictees to justice; this requires full cooperation on the part of all States concerned, with a view to regaining stability in the regions concerned.

I would like to pose a few questions to the Presidents and the Prosecutors of the two Tribunals. We have listened to the briefing of the President of the International Tribunal for the Former Yugoslavia, Mr. Pocar, in which he requested that the Council send a strong message to the fugitives; the President of the International Criminal Tribunal for Rwanda requested no particular measure from the Council. I would ask for a frank and complete answer to this question: What is required of the Security Council in supporting the work of the Tribunals? If the answer is that the Council should take certain measures against those States that do not cooperate with the Tribunals, then the Security Council should approach the matter seriously and strictly so as to guarantee that no one can ever again enjoy impunity.

My second question too is directed to both Tribunals. It concerns the failure to transfer accused within a specific time frame. Here, I would refer to an issue raised by Mr. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda, when he said that the principal suspects must be transferred. They, in addition to Félicien Kabuga, must be brought to justice before the end of 2007. If these suspects are not transferred before the end of 2007, the work of the Tribunal may be jeopardized. We also heard some Council members state that they would not agree to an extension of the work of the Tribunals after the expiry of their mandates. Whether the mandates end in 2007, 2008, 2009 or 2010, if these suspects are still at large, what measures should then be taken? Would these suspects be transferred to national jurisdictions? Perhaps they would not be prepared to deal with such suspects. Is there a clear strategy regarding this issue?

My third question is directed to the Prosecutor of the ICTY. In her statement, she spoke of the transfer of certain cases to some States and said that she believed that certain Governments had interfered in the judicial processes of the cases that she had transferred to national jurisdictions. If there is true interference by those States, that would be a serious matter which should be dealt with not only by the Security Council but also by the Office of the Prosecutor. If she had predicted that something like this might happen, why did she transfer these cases to national jurisdictions?

My last question is for the representatives of the ICTY, who know that the Security Council is dealing with Kosovo at the present time. There is a settlement plan that includes judicial measures. What would be the impact of a settlement plan in Kosovo on the work and jurisdiction of the Tribunal?

Mr. Li Junhua (China) (*spoke in Chinese*): First, I would like to thank President Fausto Pocar, Prosecutor Carla Del Ponte, President Dennis Byron and Prosecutor Hassan Bubacar Jallow for their briefings on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). China has taken full note of the continued progress in the work of both Tribunals, and we welcome this progress. We also have confidence and expectations regarding the full implementation of the completion strategies of the two Tribunals.

Six months ago, my delegation pointed out (in this Council) that the successful implementation of the Tribunals' completion strategies relies on three key elements. First, both Tribunals need to improve their efficiency in trial proceedings. Secondly, countries of the regions need to play their role in these proceedings. Thirdly, countries in the regions need to cooperate with both Tribunals.

The latest reports of the Tribunals set out a number of highly effective measures for improving efficiency in their proceedings. The Security Council should fully acknowledge these measures.

With regard to the referral of cases involving intermediate and lower-ranking accused to competent national jurisdictions, we are very pleased that both Tribunals have considered this to be an important part of the implementation of their completion strategies. Since this question is closely related to capacity-building for the judiciaries of the countries in the

regions, much more remains to be done. These countries should enjoy greater trust and be provided with more opportunities. States that have the ability to do so should provide further financial and technical support so that the countries in question are fully prepared for the gradual transfer of cases to national jurisdictions at an early date. Both Tribunals seem to have run into difficulty on the question of cooperation. Therefore, we call upon those countries in a position to do so and countries in the region to continue to strengthen their cooperation with the two Tribunals.

China notes that the reports refer to the issue of the legacies of the Tribunals. We welcome early consideration of and implementation of various follow-up mechanisms to the completion strategy. Meanwhile, in China's view, the residual issues should be approached with a mechanism that has been carefully worked out on the basis of adherence to the principles and timeline of the completion strategy, as established by the Security Council.

In the process of the implementation of the completion strategies, difficulties and complications are to be expected. However, we believe that with goodwill and strengthened cooperation, those issues can be solved in a satisfactory manner.

Mr. Maqungo (South Africa): My delegation wishes to thank Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), for their statements to the Council elaborating on the measures their respective Tribunals are taking to achieve the completion strategy.

My delegation wishes to take this opportunity to pay tribute and express its appreciation to Prosecutor Carla Del Ponte for the stellar work and contribution she has made to international criminal justice. We also wish to thank Mr. Hassan Bubacar Jallow for his statement before the Council today.

My delegation commends both Tribunals for the steps they are taking to ensure that they achieve the completion strategy. In particular, we welcome the measures taken to increase the efficiency of the Tribunals in processing their trials by holding a high number of trials simultaneously, by effecting amendments to the Rules of Procedure for the purpose of expediting proceedings and also by making optimum use of ad litem judges.

The completion strategy is time-bound, and therefore, notwithstanding the steps the Tribunals are taking to increase efficiency, the key element in achieving the completion strategy is the referral of cases to national jurisdictions. For now, that strategy is the referral of intermediate and low-ranking individuals to national justice systems. In the future, with due passage of time and given the inability to effect arrests, we may have to look at the referral of cases at other levels to national justice systems. To that end, we commend the various countries that have accepted cases from the Tribunals. We are particularly keen to see the situation countries, where the crimes were committed, take up for themselves the responsibility of accepting more referrals from the Tribunals. We therefore welcome any efforts to provide technical assistance to the situation countries in order to reform their justice systems with a view to enabling them to absorb the cases from the Tribunals. We strongly believe that justice sector reform is a critical element of post conflict reconstruction.

In both Tribunals there are indictees still at large and some of them are particularly high-level accused or are alleged to have committed crimes that ideally should be dealt with at the international level. For example, in the International Criminal Tribunal for Rwanda there is the fugitive Félicien Kabuga and for the International Criminal Tribunal for the Former Yugoslavia there is Radovan Karadzic and Ratko Mladic. It is important that those fugitives ultimately be brought to justice, and we call for full cooperation with the Tribunals to arrest and surrender those individuals for trial.

We note with satisfaction the recent arrest of high-level fugitives, General Zdravko Tolimir and Vlastimir Djordjevic. My delegation welcomes the cooperation between the International Criminal Tribunal for the Former Yugoslavia and the countries of the region that led to the eventual capture of those fugitives.

Finally, the fact that the Tribunals are working towards completing their work raises questions regarding their legacy and the lasting preservation of their achievements. The Tribunals were established by the Security Council consistent with its responsibility to maintain international peace and security, and therefore, as we consider their legacy and achievements, we have to measure them by the extent

of their contribution to the maintenance of international peace and security.

Today Rwanda is on a path towards development, and the countries of the former Yugoslavia live in relative peace with each other. It can therefore be said that the Tribunals have contributed much to the maintenance of international peace and security. There will, however, be a need to consolidate the Tribunals' achievements and to ensure the preservation of the Tribunals' legacy. The work required includes ensuring that the passage of time does not result in impunity for any fugitives. It is also important that the archives of the Tribunals be preserved and stored in a place where future generations could have access to them and take lesson from the work of both Tribunals — that lesson being namely, that there shall be no impunity for genocide, crimes against humanity and war crimes.

I will, if I may, take this opportunity to ask Judge Byron one question. What lies in store for individuals who are acquitted and those who serve their sentences and are then released? We were under the impression that those individuals had the right to return to their own countries. We have not received any indication that their countries would be unwilling to accept them. Therefore, it would be interesting to find out what is the basis for looking beyond the countries of origin of those individuals.

The President (*spoke in French*): I shall now make a brief statement. Given that time management is a legitimate concern of the Chair, I shall summarize a few points. The written text of my statement will be circulated.

I first wish to pay tribute to Ms. Carla Del Ponte, whose term is coming to an end soon, for the outstanding and exceptional manner in which she has discharged her duties. Without the determination that she demonstrated, it is clear that the International Criminal Tribunal for the Former Yugoslavia (ICTY) would not have been able to achieve the outstanding record it has today.

Secondly, I wish to note that for Belgium the Tribunals cannot be seen as having adequately served the cause of justice as long as there are fugitives that have not been apprehended and have not been brought to justice. That is particularly important for those accused of the most serious sorts of crimes — they are Radovan Karadzic, Ratko Mladic and Félicien Kabuga. We call on all States concerned to cooperate fully with the Tribunal as is their obligation, in order to apprehend those individuals.

Belgium welcomes the information given by Ms. Del Ponte on the improvement of cooperation with Serbia and the apprehension of Mr. Tolimir and Mr. Djordjevic. Those events should be welcomed, but the ultimate objective is still the apprehension and bringing to justice of all fugitives.

Thirdly, it is clear to Belgium that the dates set for the conclusion of work, as set out in resolution 1503 (2003), are estimates and are not set in stone. What is important is that the Tribunals be in a position to bring to trial any high-level accused who have not yet been apprehended. Otherwise, justice will not have been done, or it will have been done in an incomplete fashion. Some victims may feel aggrieved, and the legacy of the Tribunals will be tarnished. If the fugitives are apprehended before those dates, we cannot exclude the possibility that the dates will be modified so that they can be brought to trial before the Tribunals, which were created for that specific purpose.

This brings me to my final point: the question of the so-called residual functions of the Tribunals. One of the most important of those concerns the trials of the fugitives that I have just mentioned, who may be apprehended after, or immediately before, the date set for the end of the Tribunal's work. There are other residual questions, including those relating to archives, administrative issues, human resources and purely judicial functions, such as the supervision of those trials that have been moved to national jurisdictions, the serving of sentences, witness protection programmes and so forth. Officials from the two Tribunals have already begun to consider those issues, and it is now up to the Council to deal, as soon as possible, with those complex issues so as to define an appropriate mechanism. My delegation is determined to take an active part in that process.

I now resume my functions as President of the Council.

I give the floor to the representative of Bosnia and Herzegovina.

Mr. Prica (Bosnia and Herzegovina): At the outset, let me thank the Presidents of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, Judge Fausto Pocar and Judge Dennis Byron,

as well as Prosecutor Carla Del Ponte and Prosecutor Hassan Bubacar Jallow, for their briefings to the Council.

I would like to take this opportunity, of course, to congratulate Judge Dennis Byron on his assumption of his very important post, as well as to pay tribute to Ms. Carla Del Ponte, Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY), for her work to date, and to wish her all the best for the future.

Once again, I would like to reassure the Council of Bosnia and Herzegovina's strong commitment to fully cooperate with the ICTY. As I reiterated at the meeting in December 2006, our authorities at the State and entity levels have undertaken every possible effort to locate and arrest those indicted war criminals who are still at large. Furthermore, additional efforts have been made to strengthen cooperation with the authorities of neighbouring Serbia for the sake of better tracing any possible links and networks responsible for hiding those fugitives.

I would like to mention, as the most recent result of all those efforts, the arrest of General Zdravko Tolimir on 31 May 2007 at the border with neighbouring Serbia by our authorities and his immediate transfer to The Hague. Thus, since the arrest of General Vlastimir Djordjevic in Montenegro, the number of indictees that remain at large is now 4 out of a total of 161 indicted by the Tribunal.

During the past six months, our authorities at all levels have continued to strengthen logistics in order to trace the remaining fugitives. Numerous activities have been developed on the ground which we believe have further diminished the manoeuvring space of those who may try to help them from our territory. Ultimately, it must be underlined that, to date, international and domestic intelligence has not provided any reliable traces within the borders of Bosnia and Herzegovina that could lead us to the whereabouts of those who remain at large.

I would like to take this opportunity to stress that the authorities of my country will continue to undertake every possible measure to ensure that all perpetrators of war crimes on the territory of the former Yugoslavia, if found in Bosnia and Herzegovina, will be brought to justice, either before the Tribunal or, with the consent of the ICTY, before our national courts.

As is well known, in 2006 Bosnia and Herzegovina completed its judicial framework regarding war crimes as an important part of our national judicial system. The War Crimes Chamber of the Court of Bosnia and Herzegovina has continued to process the significant number of cases referred by the ICTY, as well as those raised by the Prosecutor of Bosnia and Herzegovina.

Regarding the case of Radovan Stankovic and his escape from Foca prison three weeks ago, I have to stress, on behalf of the authorities of my country, that all measures have been undertaken to ensure that such an unfortunate event will never happen again. Furthermore, every possible effort is being made, in cooperation with the police of neighbouring Serbia, to trace and find Radovan Stankovic and to bring him back into custody and to investigate and punish those responsible for his escape.

I would like to express appreciation and satisfaction concerning the remarks made by the Prosecutor, Ms. Del Ponte, that Bosnia and Herzegovina's cooperation with her Office is now at a generally satisfactory level, as well as her recognition of the important role played by Bosnia and Herzegovina and, in particular, Republika Srpska, in the arrest and transfer to The Hague of General Zdravko Tolimir.

Finally, I would like to emphasize once again the strong position and commitment of our highest authorities in support of the work of the International Tribunal for the Former Yugoslavia, underlining the utmost importance of bringing all indicted war criminals to justice. We would therefore like to call upon this body, and the international community in general, to continue to support the Tribunal until its agenda has been exhausted.

The President (*spoke in French*): I give the floor to the representative of Rwanda.

Mr. Ngoga (Rwanda): My delegation would like to take this opportunity to congratulate you, Sir, on your assumption of the presidency of the Security Council for the month of June. We also thank you for giving us this opportunity to address the Council on the important issue of the International Criminal Tribunal for Rwanda (ICTR).

We wish to join other delegations in congratulating Justice Dennis Byron on his election as

President of the ICTR. We would like to assure him of the full support and cooperation of the Rwandan Government as he continues to implement the completion strategy. We would also like to take this opportunity to express our appreciation to Judge Erik Møse for the dedication and diligence exercised throughout his four-year term as Tribunal President.

My delegation expresses its thanks to Judge Byron and Prosecutor Hassan Bubacar Jallow for their respective presentations.

I would like to note that for the first time, the President of the Rwanda genocide survivors' umbrella association, Ibuka, and the President of the genocide widows' association, AVEGA, are present at this meeting as stakeholders in the successful completion of the ICTR mandate. The Rwandan Government and those two associations share a common interest and vision regarding the future of the genocide-related judicial process after 2008 generally and, more specifically, the question of fugitives at large, the transfer of cases, the transfer of archives and other residual issues.

My delegation takes note of the revised completion strategy of the ICTR. We note that the number of persons whose trials either have been completed or are in progress is 60. Eight detainees are awaiting trial, of whom three are being considered for transfer to national jurisdictions. Eighteen indictees remain at large, including Félicien Kabuga, Augustine Ngirabatware and others. We once again appeal to the Council to take urgent measures to ensure that those indictees do not evade justice.

The completion strategy is not an exit strategy for the commitment of the international community to ensure that those fugitives are brought to justice, either by the Tribunal before the end of 2008 or in national jurisdictions after 2008. There is fairly good information about the whereabouts of those fugitives, but there is still little progress in arresting them. We therefore urge the Council to take the necessary measures to ensure that all States cooperate in apprehending those fugitives and handing them over for trial. States that fail to do so must be held accountable by the Council. We urge the Tribunal to be more transparent in naming those States that are not sufficiently cooperative in this area.

Rwanda welcomes the initiative of the ICTR Prosecutor regarding the transfer of cases to national jurisdictions, principally to Rwanda. The Rwanda Government and the Prosecutor have made remarkable progress with respect to the transfer of cases. The Rwanda Government is committed to continuing those preparations. For example, organic law No. 11/2007 has been promulgated, to govern all legal matters pertaining to the referral of cases to Rwanda. Other arrangements have been made with a view to ensuring that all the requirements set forth under rule 11 bis are met. Consequently, the first request for referral of a case to Rwanda, namely, that of Fulgence Kayishema, was made recently. We are pleased that our partnership with the Office of the Prosecutor has enabled us to register significant progress in these areas.

It is the position of the Rwanda Government that, to the extent possible, pending cases must be transferred to Rwanda's national jurisdiction. That position is founded on the following grounds: first, justice must be seen to be done within the territory where crimes were committed; secondly, it is more efficient and effective to hold trials in Rwanda, as evidence and witnesses are mostly to be found in Rwanda; thirdly, on the basis of the principle of sovereign equality, Rwanda having cooperated with the ICTR as an international judicial institution should not be subordinated to any other national system; and, fourthly, the transfer of cases would complement and reinforce Government policies towards reconciliation, which is central to the mandate of the ICTR.

Rwanda expects the same support and degree of cooperation from States as that extended to the ICTR in its pursuit of fugitives. We would recommend that, as the Tribunal mandate comes to an end, the Security Council adopt a resolution that would obligate States to fully cooperate with Rwanda's national jurisdiction in tracking down and eventually prosecuting fugitives who are still at large.

However, my delegation was surprised to learn at this meeting through the statements made by Judge Byron and Prosecutor Jallow that there are plans under way to refer cases and send convicts to France; I say this despite the positive statement by the representative of France. My Government has serious concerns about this — principally because well-known fugitives at large continue to live in that country with impunity. We intend to raise this issue with the appropriate authorities at the highest level.

By way of preparation, and in partnership with the ICTR Office of the Prosecutor, Rwanda has, among other things, undertaking the following steps.

First, we have enacted a law to govern the referral of cases from the ICTR to Rwandan courts. That law abolishes the death penalty and sufficiently addresses procedural and substantive aspects of prospective trials, as well as monitoring mechanisms. It also establishes a legal-aid fund for indigent accused and a witness protection mechanism — to which we hope that the international community will contribute, as it has done as regards the ICTR.

Secondly, although there has been significant development of the country's justice sector, a comprehensive capacity-building plan is under way for longer-term purposes. In that regard, we wish to recognize the support from the United States Government through the Office of the Ambassador-at-Large for War Crimes issues, as well as from the Governments of the Kingdom of the Netherlands, Germany, Belgium and some other members of the European Union. We take this opportunity to urge the international community to actively participate in these capacity-building efforts. This becomes even more important in the light of the completion of the ICTR's mandate and Rwanda's central role in tracking and bringing to justice genocide fugitives in the years to come. Rwanda will remain open and receptive to positive input in that process. We also appreciate the ICTR's initiatives in the area of capacity-building, as set out in the report of the President of the Tribunal.

Of equal importance is the question of the transfer of convicts to serve sentences in Rwanda. The execution of sentences is vital in criminal justice processes. Administrative bureaucracy that continues to delay decisions on this matter is causing substantial damage to the ICTR process. We urge those concerned to take urgent steps to remedy that situation. Rwanda believes that ICTR convicts must serve their sentences in Rwanda, where they committed the crimes and where they should be seen serving their sentences.

With regard to those who have been acquitted by the ICTR, it is the policy of our country to welcome home every Rwandan who happened to be abroad for any reason. The doors remain open to those who have been acquitted by the ICTR. My country is therefore not responsible for the difficulties that the Tribunal is experiencing, which the President mentioned.

As we continue to consider the legacy of the Tribunal on international justice in general, but more specifically its effects on Rwanda, we believe that the completion strategy should incorporate the transfer of all court documents and materials to Rwanda. We are aware of the interest expressed by another State in acquiring ICTR judicial archives. We wish to emphasize that those records constitute an important part of our country's recent history and that they are of critical importance to our reconciliation and civic policies. That overrides any desire to acquire those archives simply for research or similar purposes. As decision is reached on this issue, we hope that there will be no prejudice against Rwanda on the pretext of its limited material means.

Rwanda believes that cooperation and partnership with the Government should be strengthened during the remaining part of the ICTR mandate. This should not only cover administrative issues but should also entail joint planning in the areas of legacy and residual issues, in which Rwanda is the logical partner.

We would like to conclude by expressing our profound appreciation to the international community for its continued support of the Tribunal through both assessed and voluntary contributions. As we enter the last leg, we urge the Council to continue its commitment to ensuring that the Tribunal has the adequate resources to conduct its work efficiently and effectively. We would also like to thank the Tribunal's President and Prosecutor and their respective teams for their work in ensuring the implementation of the completion strategy.

The President (*spoke in French*): I now give the floor to the representative of Serbia.

Mr. Jevremović (Serbia): Before I proceed to make my statement, I would like to convey my respects to the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Fausto Pocar, and to the Tribunal's Prosecutor, Ms. Del Ponte. I take this opportunity to say that, in the past, our cooperation with the Prosecutor's Office and Ms. Del Ponte has had its ups and downs, but we have never challenged her personal integrity or her determination to see that those indicted for the most serious violations of humanitarian law be brought to justice. Those qualities have served the victims and helped present and future generations of our people to live in peace and security. I emphasize once again my sincere appreciation and thanks.

Serbia is making continued efforts to strengthen its cooperation with the ICTY. In doing so, it has been guided by the following considerations.

The cooperation is carried out because it is mandated by our international obligation. It gives credence to Serbia's full respect for the international standards related to the individual responsibility of persons who have committed war crimes and other violations of international humanitarian law, and to its firm resolve to make a clean break with the legacy of the Milosevic regime. It is proof of its genuine acceptance of the values that underpin European societies and provides substance to the country's commitment to joining Euro-Atlantic integrations. Most importantly, there can be no reconciliation in the territory of the former Yugoslavia unless the ICTY fulfils its mandate, to which Serbia is prepared to make a full contribution.

Our cooperation is manifested in a number of practical ramifications: the arrest and transfer of indictees; the release of civilian and military Government officials from the legal obligation to keep official secrets; and the release of documents, all within effective regional cooperation and with full support for the ICTY's Completion Strategy.

In that regard, the Office of the ICTY Prosecutor has submitted about 1,600 various requests. All have been attended to in a timely and expeditious manner, with replies to fewer than 2 to 3 per cent still pending, as those sometimes take more than two months to process. So far, the Government has released over 500 military, police and Government officials from the restriction to keep State, official and military secrets.

The National ICTY Cooperation Council decided to allow the ICTY Prosecutor's Office general access to Serbian archives. As a result, the Prosecutor's Office has been provided with thousands of documents, including classified ones. At the same time, the speed of the processing of the requested documents has increased considerably, notwithstanding complex administrative procedures in certain cases.

There is no doubt that all those who have committed war crimes and been indicted by the ICTY should be tried, and a number of notorious indictees have indeed been apprehended and transferred to the ICTY. Moreover, Serbia has taken many steps to encourage the indictees' voluntary surrender as well. Those measures have been effective and, by mid-2005, 14 indictees had surrendered voluntarily.

Most recently, ICTY indictee and former general Zdravko Tolimir was arrested in a joint security operation with Bosnia and Herzegovina. The number of indictees transferred to The Hague has thus increased to 38; 27 of those surrendered voluntarily, while 11 were arrested. Just two days ago, Vlastimir Djordjevic, a former high-ranking police official, was arrested in a joint operation of Montenegrin and Serbian authorities and transferred to the detention unit at Scheveningen, whereby the number of indictees transferred to The Hague increased to 39. I firmly believe that the four remaining individuals — fugitives Zupljanin, Karadzic, Mladic and Hadzic — will be located and apprehended in the near future.

The new Government has established a National Security Council to coordinate national intelligence agencies, which play the key role in locating and apprehending ICTY indictees. The Council is chaired by the President of the Republic. Also, the National ICTY Cooperation Council has been strengthened and its members were appointed this month and given greater authority with respect to the processing of ICTY requests.

Serbia supports the Completion Strategy of the ICTY, defined in Security Council resolutions 1503 (2003) and 1534 (2004). The basic precondition for the success of the Strategy is, we believe, the capacity of domestic courts to process the cases that have been transferred by the ICTY in accordance with international legal standards. To that end, a War Crimes Council was established within the District Court of Belgrade on 1 July 2003, as well as the War Crimes Prosecutor's Office, specially authorized to deal with those cases. The processing of several notorious cases gave proof of the effectiveness of the new judicial institutions.

As a result of cooperation, the War Crime Prosecutor's Office has been ceded the Zvornik case by the ICTY, and 9 suspects involved in the case have been arrested and charged. The case of the Batajnica mass graves is being investigated, while 12 persons, suspected of the war crime of killing 70 civilians in the village of Lovas in 1991, were arrested and arraigned before the District Court in Belgrade last May.

The War Crimes District Court in Belgrade and the Prosecutor's Office are properly equipped to try the

cases in accordance with legal standards. Proceeding directly from that assessment, the ICTY transferred the Kovacevic case to Serbia's judiciary. So far, Serbia has requested the transfer of six cases with 12 indictees under Rule 11 bis of the ICTY Rules of Procedure and Evidence. To further cooperation, an agreement on Serbia's Prosecutor's Office's access to the ICTY's electronic database was signed in July 2006.

Within the context of the policy of cooperation and the promotion of information exchange, which includes high-level visits, the ICTY Prosecutor visited Belgrade on 4 to 8 June 2007. The visit has been mutually assessed as very positive.

The investigation and bringing to justice of those who perpetrated the most heinous crimes in recent history are common moral and political obligations of all countries affected by the recent conflicts in the region. Regional cooperation in that field among the judicial institutions of those countries is therefore of paramount importance. Meetings of the Prosecutors of Serbia, Montenegro, Croatia and Bosnia and Herzegovina within the so-called Palić process are held on a regular basis in the context of the evolving cooperation. The signing of memorandums of understanding with the Prosecutors of Croatia and Bosnia and Herzegovina and the expected signing of a similar memorandum with the Prosecutor of Macedonia are welcome first steps in the right direction.

Serbia welcomes the Agreement between the Organization for Security and Cooperation in Europe (OSCE) and the ICTY, enabling the OSCE missions in Bosnia and Herzegovina, Croatia, Montenegro and Serbia to monitor the trials of war crimes in the domestic courts of those countries. It also expresses its gratitude to the OSCE, the United Nations Development Programme, the Council of Europe and other institutions and States that have rendered assistance in harmonizing its domestic criminal legislation with ICTY standards and in training war crimes prosecutors and judges.

The President (*spoke in French*): I call on the representative of Montenegro.

Mr. Kaludjerović (Montenegro): Since this is the first time that I am addressing the Security Council on behalf of the youngest State Member of the United Nations, please allow me to reaffirm full Montenegrin commitment to respect of international law and the implementation of all our obligations in that regard.

I would like to join previous speakers and thank Judge Fausto Pocar, President of the International Tribunal for the former Yugoslavia (ICTY), and Ms. Carla Del Ponte, ICTY Chief Prosecutor, for their comprehensive report and briefings about the achievements of the Tribunal, particularly the most recent, as well as about the challenges that lie ahead. Given that it is vital that the Tribunal's mandate and completion strategy be carried through, we very much appreciate and support the efforts that they have made in that regard. My thanks go also to the newly elected President, Judge Dennis Byron, for his briefing. I wish him every success in carrying out his important duties. I also thank Mr. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), for his briefing.

Let me touch briefly on a part of the report that we have been discussing today, related to international cooperation in the context of an event that took place in my country this week. This is not the first time that the Tribunal has issued a detailed and comprehensive written report shortly before a very important event — which attests, above all, to the effective and dynamic work of the Tribunal. An important precondition for the fulfilment of the Tribunal's mandate occurred in my country yesterday, when Vlastimir Djordjevic, an indictee who had long been a fugitive, was arrested and extradited to the Tribunal by the Government of Montenegron. Our authorities handled the case in an expeditious and professional manner, fulfilling their internal, regional and international obligations, having previously cooperated fully with the Tribunal and with the competent Serbian authorities. This is a clear confirmation of the determination of the Government of Montenegro — primarily the Ministry of the Interior and the National Security Agency — to respect and carry out their international obligations. We strongly believe that impunity cannot serve justice and that all indictees must face the truth and be brought to justice for the charges raised against them.

I would also like to emphasize that Montenegro has been continuously engaged in very intensive cooperation with the Tribunal and the Prosecutor's Office. That fact has been reiterated several times in recent years during the consideration of the Tribunal's reports in the Security Council. I would like to thank Ms. Carla Del Ponte for giving me the opportunity to hear that once again today in her introductory remarks.

Yesterday's closing of the first chapter — if I may call it that — of the Djordjevic case also confirms that comprehensive cooperation with the Tribunal must go hand in hand with regional cooperation at all levels. I assure members that nothing will hinder us in our determination to foster, within our responsibilities, all aspects of our cooperation with the Tribunal and all the parties that contribute to its successful work.

We agree with the concluding comment of the President of the International Tribunal that

> "the success of the International Tribunal is not exclusively measured by the judgments issued or the number of trials and appeals completed. The overall legacy of the International Tribunal will be the precedent that it has set for the enforcement of international humanitarian law and the contribution that it has made to the establishment of peace and stability in the former Yugoslavia through the prosecution of those responsible for the atrocities committed in the region."

Finally, as this is the last Security Council meeting at which the Prosecutor of the ICTY will be submitting a report, I should like, on behalf of my Government, to thank Ms. Carla Del Ponte for her enormous contribution, her exceptional dedication and her tireless efforts aimed at the fulfilment of the Tribunal's mandate, as well as for the cooperation, understanding and support that have been given to Montenegro. I would also like to wish her every success in her future career.

The President (*spoke in French*): I shall now give the floor consecutively to Judge Pocar, Judge Byron, Ms. Del Ponte and Mr. Jallow.

I shall first give the floor to Judge Pocar to respond to comments and questions raised.

Judge Pocar (*spoke in French*): I should like at the outset to thank the Security Council and its members for the comments that they have been kind enough to make on the report of the Tribunal and for the support that they have shown with regard to the Tribunal.

I have duly noted all the comments that have been made regarding suggestions made and the efforts we are making to implement the completion strategy within the time frame that — we must acknowledge — was indicated by the Tribunal itself seven years ago and accepted by the Security Council. But, of course, seven years ago, those indications were given by the Tribunal on the basis of factual data that at the time were far from being clearly established or predictable.

Nevertheless, I wish to indicate that the provisional timetable for ongoing and future trials, which is annexed to the report, was annexed to ensure the full transparency necessary for the process and for the relations between the Security Council and the Tribunal. I wish to assure the Council that we are constantly working to improve the timetable and to further reduce the time in order to comply as much as possible with the indications and deadlines of the completion strategy. With regard to the two dates, 2008 and 2010, the fact that, as was indicated, a number of trials should continue during 2009 does not mean that we will not try to accelerate the appeals process in order to meet, as far as possible, the 2010 deadline.

(*spoke in English*)

As for specific questions raised, I should like to refer in particular to what the representative of Qatar said about the message that should come from the Tribunal. I do not know how the interpreter rendered my statement. What I indicated was that it was urgent that the Council send a strong message to the fugitives that they will not be allowed to wait out international justice. From all the interventions that have been made here in the Security Council, I take it that that message is being sent by the Council. So that was the premise of my suggestion and indication.

As to the impact of the plan that has been adopted by the Security Council on Kosovo with regard to the judicial activities of the Tribunal, I would prefer not to give any specific comment. We have a couple of cases before us concerning events in Kosovo, and I take it that those cases are under way and will continue. As members will certainly appreciate, I, as a representative of the Tribunal, cannot say more than that.

I would like to stress one last point. I have taken note that most representatives have pointed to the need for cooperation by national authorities in the region. I can only agree with that. I must assure the Council that we are working in that direction. The judges of the Tribunal participate in meetings of the judiciaries in the region in order to help the jurisdictions in the region to cooperate with them and with the Tribunal itself. So we are working to set up certain partnerships

with local jurisdictions so that they can continue to work on cases after the Tribunal has had to close its doors.

I shall conclude by reaffirming the Tribunal's commitment to the completion strategy.

The President (*spoke in French*): I thank Judge Pocar for the clarifications he has provided.

I now give the floor to Judge Byron.

Judge Byron: I would like, first of all, to express appreciation for the kind and encouraging words addressed to me as I assume the Office of President of the International Criminal Tribunal for Rwanda (ICTR). I would like to give the Security Council the assurance that I will make my best efforts to attain the laudable objectives of the Tribunal. I would also indicate that I will, with great pleasure, convey to my predecessor, Judge Erik Møse, the kind words and congratulatory messages expressed by members here today.

This is the first time that I have attended a meeting such as this, and the most powerful impression I have is the intimate knowledge of the challenges facing the Tribunal which has been exhibited by all participants here today. That makes it unnecessary, I think, for me to reiterate any points I had made earlier, and particularly I recall that during the course of this week there will be an opportunity for more detailed discussions on the legacy and issues which have been raised today.

I have every confidence that the attention to detail that has been demonstrated today will lead to finding the most appropriate solutions to the challenges that have been highlighted.

Before closing, I should refer to the questions that were specifically addressed to me by the representatives of the Republic of Congo and of South Africa, both of which relate to the same issue: dealing with the location of acquitted persons.

The Tribunal needs to address these issues in a holistic manner. Nothing that I have said indicated that there was a problem with cooperation with Rwanda, which, as I have specifically stated, continues to cooperate fully with the Tribunal in all its activities.

But some of the issues which have been affecting the decision-making in these processes include the interests of justice and human rights, including concerns expressed by the acquitted or released persons. The Tribunal has been acting, with the assistance of States and relevant United Nations agencies, to deploy its best efforts to resolve this matter in a manner that is consistent with the rules of international humanitarian law, taking into account the best interests of all concerned.

I hope that I have answered the questions which have been raised as fully as I can at this time.

As my colleague Judge Pocar said, I also have taken note of the remarks made today. We are particularly pleased at the widespread assertion of the importance of State cooperation to the attainment of the goals of the Tribunal, and, on behalf of the Tribunal, I express appreciation once again to the Security Council for the interest it has evinced, the support it has given and its pledges to continue giving it.

The President (*spoke in French*): I thank Judge Byron for the clarifications he has provided.

I give the floor to Ms. Del Ponte to respond to the comments made.

Ms. Del Ponte: I, too, should like to express my gratitude for the comments made, and, of course, I deeply appreciate all the comments and suggestions and will share them with my colleagues in my Office.

I will touch briefly on three issues.

First of all, I think it is clear from this morning's discussions that there is unanimity in the Security Council concerning full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Let me say that full cooperation will mean that Karadzic, Mladic and the other fugitives will be at The Hague. I hope, therefore, that the Security Council will follow up on cooperation with us. As I said, Serbia, Montenegro and Croatia are on the way to full cooperation with us.

Secondly, Djordjevic was arrested in Montenegro, but that does not mean that he was not in Russia before that. Following Tolimir's arrest, we acknowledged that he was also in Russia in 2005. That is just to indicate that they move around, but, in the end, they go back to their country.

Concerning the transfer of cases to national jurisdictions, I did not say that the Governments are interfering; I said that the temptation of the respective

Governments to interfere in this process is still very present. Why? To underline the importance of the monitoring by the Organization for Security and Cooperation in Europe (OSCE) of our trials, particularly the 11 bis trials — because, of course, we have primacy. It is important that such monitoring continue in Croatia as well to avoid any possible interference. But we do not yet have a real, concrete case of this.

The President (*spoke in French*): I thank Ms. Del Ponte for her statement and the clarifications she provided.

I give the floor to Mr. Jallow to respond to comments made.

Mr. Jallow: I, too, should like to express my appreciation to the members of the Council for their support and their words of encouragement.

I should like to address three issues that were raised.

First, there was an expression of interest by the representative of the United Kingdom on further details regarding the Rwandan law which has been enacted on the transfer of cases. It will be circulated to members of the Council so they can see the details of it. But I should just like to emphasize the fact that it applies to the transfer of cases both from the International Criminal Tribunal for Rwanda (ICTR) and from other States to Rwanda. It therefore opens up the possibility of greater cooperation between Rwanda and other countries in that particular area, particularly countries where Rwandan génocidaires whom we cannot prosecute at the Tribunal, for various reasons, reside. This law now provides a framework for cooperation between such countries and Rwanda.

Essentially, the law provides that all such cases will be tried by the High Court in Rwanda, not by a traditional court. They will be tried by the High Court, which comprises legally qualified and experienced judges, with appeals going to the Supreme Court, which will also be similarly composed. It provides for the traditional guarantees of a fair trial, the right to be tried within a reasonable time, the right not to be tried in absentia, the right to call witnesses, the presumption of innocence and so on — in fact, basically all the rights that are in the ICTR's Statute — the right to counsel and so on.

Given the specific features of the process itself, certain guarantees are provided for defence counsel and defence witnesses, so that defence counsel and defence witnesses who have to travel to Rwanda to participate in this process are provided with legal guarantees against search, seizure, arrest and so on, so that they can operate freely and carry out their functions effectively in the country.

The law also provides that, in the event of conviction, prisoners will be held in accordance with United Nations minimum standards for the detention of persons. All these guarantees are provided, and, as I said at the beginning, I believe that it does really provide us with the necessary fair trial guarantees to enable the process of referral to take place. The text of the law, as I indicated, will also be circulated.

The second issue relates to the question raised by the representative of Qatar. My understanding was that it relates to whether the Council is being asked to take a decision on the issue of the top six fugitives who are still at large but whom we wish to have prosecuted at the Tribunal. We are not asking for any decision now by the Council on that issue. We are just flagging it as an issue which may arise next year; we all agree that these six people, because of their status and the level of their participation in the genocide, need to be tried before the ICTR. If they are arrested next year and brought to the ICTR at a time when their trials cannot be finished by the end of 2008, then the Council will have to decide how we proceed with their cases: should we continue with their cases beyond 2008, or should we seek to transfer their cases to a national jurisdiction or to another international mechanism? This is a question that could possibly arise next year; it does not have to be decided upon now. We merely flagged it for the Council's attention.

Regarding the transfer to France, we all agree, of course, that the international prosecution of these crimes is a responsibility shared between the Tribunal and Member States. What we can prosecute and handle in Arusha, we do. Where we find Member States willing and able to take some of the responsibility from us and handle it effectively, we share the burden with them. That is why we are trying to refer cases to Rwanda and to other countries. France has indicated to us its commitment to accept these cases and effectively prosecute them, and it is on that basis that we have proceeded to request the referrals to Paris for trial.

Finally, I wish to join my colleagues in placing on record the appreciation of all the international tribunals, the entire international community and, indeed, all those who are interested in the cause of international criminal justice for the tremendous contribution of Ms. Carla Del Ponte in promoting the cause of international criminal justice. I speak particularly as her successor at the Rwanda tribunal — one who is keenly aware and appreciative of the very strong foundation she laid there, which has enabled us to make progress and to maintain the momentum in this area. We wish her very well in the future. We will surely miss her presence at these gatherings.

The President (*spoke in French*): I thank Mr. Jallow for his kind words and for the clarifications he has provided.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

I would like to take this opportunity once again to express my thanks, on behalf of the Council, to Judge Pocar and Judge Byron and to the Prosecutors, Ms. Del Ponte and Mr. Jallow, for their briefings to the Council.

The meeting rose at 1.50 p.m.